legister State Washington

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CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: The 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

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DENNIS W. COOPER Code Reviser

WASHINGTON STATE REGISTER

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

Documents are arranged within each issue of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence within an issue's material.

2. PROPOSED, ADOPTED, AND EMERGENCY RULES OF STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW) may be distinguished by the size and style of type in which they appear.

- (a) Proposed rules are those rules pending permanent adoption by an agency and set forth in eight point type.
- (b) Adopted rules have been permanently adopted and are set forth in ten point type.
- (c) Emergency rules have been adopted on an emergency basis and are set forth in ten point oblique type.

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

RCW 34.04.058 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections
 - (i) <u>underlined matter</u> is new matter;
 - (ii) deleted matter is ((lined out and bracketed between double parentheses));
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

4. EXECUTIVE ORDERS, COURT RULES, NOTICES OF PUBLIC MEETINGS

Material contained in the Register other than rule-making actions taken under the APA or the HEAPA does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

5. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules take effect thirty days after the rules and the agency order adopting them are filed with the code reviser. This effective date may be delayed, but not advanced, and a delayed effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser and remain effective for a maximum of ninety days from that date.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

6. EDITORIAL CORRECTIONS

Material inserted by the code reviser for purposes of clarification or correction or to show the source or history of a document is enclosed in brackets [].

7. INDEX AND TABLES

A combined subject matter and agency index and a table of WAC sections affected may be found at the end of each issue.

1983 – 1984 DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closin	g Dates ¹		Distribution Date	First Agency Action Date ³
		o 29 p. 10	OTS ² or p. max. on-OTS		
For					For hearing/adoption on or after
Inclusion in—	File no	later than—	a	lays from—	on or after
83–18	Aug 10	Aug 24	Sep 7	Sep 21	Oct 11
83-19	Aug 24	Sep 7	Sep 21	Oct 5	Oct 25
83-20	Sep 7	Sep 21	Oct 5	Oct 19	Nov 8
83-21	Sep 21	Oct 5	Oct 19	Nov 2	Nov 22
83-22	Oct 5	Oct 19	Nov 2	Nov 16	Dec 6
83–23	Oct 26	Nov 9	Nov 23	Dec 7	Dec 27
83–24	Nov 9	Nov 23	Dec 7	Dec 21	Jan 10, 1984
84–01	Nov 23	Dec 7	Dec 21, 198	83 Jan 4, 1984	Jan 24
84-02	Dec 7	Dec 21, 1983	Jan 4, 1984	Jan 18	Feb 7
84–03	Dec 21, 1983	Jan 4 1984	Jan 18	Feb 1	Feb 21
84-04	Jan 4	Jan 18	Feb 1	Feb 15	Mar 6
84–05	Jan 25	Feb 8	Feb 22	Mar 7	Mar 27
84–06	Feb 8	Feb 22	Mar 7	Mar 21	Apr 10
84-07	Feb 22	Mar 7	Mar 21	Apr 4	Apr 24
84-08	Mar 7	Mar 21	Apr 4	Apr 18	May 8
84–08 84–09	Mar 21	Apr 4	Apr 18	May 2	May 22
	Apr 4	Apr 18	May 2	May 16	Jun 5
84–10		May 9	May 23	Jun 6	Jun 26
84-11	Apr 25	May 23	Jun 6	Jun 20	Jul 10
84–12	May 9	*Jun 7	*Jun 21	*Jul 5	*Jul 25
84–13	*May 24	Jun 20	*Jul 3	Jul 18	Aug 7
84–14	Jun 6	*Jul 3	Jul 18	Aug 1	Aug 21
84-15	Jun 20		Aug l	Aug 15	Sep 4
84–16	*Jul 3	Jul 18		Sep 5	Sep 25
84–17	Jul 25	Aug 8	Aug 22	Sep 19	Oct 9
84–18	Aug 8	Aug 22	Sep 5	Oct 3	Oct 23
84–19	Aug 22	Sep 5	Sep 19	Oct 17	Nov 6
84-20	Sep 5	Sep 19	Oct 3		Nov 27
84-21	Sep 26	Oct 10	Oct 24	Nov 7	
84-22	Oct 10	Oct 24	Nov 7	Nov 21	Dec 11
84–23	Oct 24	Nov 7	Nov 21	Dec 5	Dec 25
84-24	Nov 7	Nov 21	Dec 5	Dec 19	Jan 8, 1985

^{*}Dates adjusted to accommodate July 4th holiday on normal distribution and closing date. See WAC 1-12-030(5)(c) and 1-13-030(5)(c).

¹All documents are due at the Code Reviser's Office by 5:00 p.m. on the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

²A filing of any length will be accepted on the closing dates of this column if it has been prepared by the Order Typing Service (OTS) of the Code Reviser's Office; see WAC 1-12-220 or 1-13-240. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

³*No proceeding may be held on any rule until twenty days have passed from the distribution date of the Register in which notice thereof was contained.* RCW 28B.19.030(4) and 34.04.025(4). These dates represent the twentieth day after the distribution date of the applicable Register.

WSR 84-05-001 EMERGENCY RULES DEPARTMENT OF GAME

(Game Commission)
[Order 230—Filed February 2, 1984]

Be it resolved by the Washington State Game Commission, acting at Olympia, by conference call, that it does adopt the annexed rules relating to emergency closure of the Elwha and Pysht River systems and Area 5 (Pysht Bay) to the taking of steelhead trout by treaty Indians, WAC 232-32-163.

We, the Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is data gathered by the Department of Game from fish buyers reporting sales of steelhead harvested by treaty Indian fishermen from the Elwha and Pysht River systems and Area 5 (Pysht Bay) (pursuant to the reporting system approved by the United States District Court in Washington)indicates that the treaty Indian share of harvestable steelhead for these areas will have been reached or exceeded by the effective date of this order. Therefore, it is necessary to close the Elwha and Pysht River systems and Area 5 (Pysht Bay) to assure spawning escapement and to assure that non-Indian sport fishermen can take their share.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 77.12.150 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 1, 1984.

By Elizabeth W. Meadowcroft Vice Chairman, Game Commission

NEW SECTION

WAC 232-32-163 EMERGENCY CLOSURE OF THE ELWHA AND PYSHT RIVER SYSTEMS AND AREA 5 (PYSHT BAY) TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS. Effective 10:00 a.m., February 3, 1984, it is unlawful for treaty Indians to take, fish for, or possess steelhead trout from or in the Elwha and Pysht River systems and Area 5 (Pysht Bay) – that portion inside a line drawn from Pillar Point to 1000 feet east of the mouth of the Pysht River.

WSR 84-05-002 EMERGENCY RULES DEPARTMENT OF GAME

(Game Commission)
[Order 231—Filed February 2, 1984]

Be it resolved by the Washington State Game Commission, acting at Olympia, by conference call, that it does adopt the annexed rules relating to regulation change for sport fishing on the Skagit River system and the Nooksack River system, WAC 232-28-60604.

We, the Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is recreational fisheries have taken their 5% incidental catch allowance of wild fish from runs returning at levels less than established spawning escapement objectives. All further catches must be limited to hatchery—origin steelhead.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 77.12.150 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 1, 1984.

By Elizabeth W. Meadowcroft Vice Chairman, Game Commission

NEW SECTION

WAC 232-28-60604 REGULATION CHANGE FOR SPORT FISHING ON THE SKAGIT RIVER SYSTEM AND THE NOOKSACK RIVER SYSTEM. Notwithstanding the provisions of WAC 232-28-611 on the Skagit River system and the Nooksack River system, only steelhead with dorsal fins measuring less than 2 1/4 inches in height or with missing adipose or ventral fins may be reduced to possession. It is unlawful to possess a steelhead with a dorsal fin measuring equal to or greater than 2 1/4 inches in height or to possess a steelhead with a freshly cut or mutilated fin. Effective February 17, 1984.

WSR 84-05-003 ADOPTED RULES DEPARTMENT OF GAME

(Game Commission)
[Order 221—Filed February 2, 1984]

Be it resolved by the State Game Commission, acting at the General Administration Building, Olympia,

Washington, that it does adopt the annexed rules relating to hydraulic code guidelines, amending WAC 232-14-010.

This action is taken pursuant to Notice No. WSR 83-23-112 filed with the code reviser on November 23, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 75.20.100 and is intended to administratively implement that

This rule is promulgated pursuant to chapter 34.04 RCW, which requires policies of general application to members of the public be promulgated as regulations.

This rule is promulgated under the general rule—making authority of the State Game Commission as authorized in RCW 77.12.010, which requires that wild-life be preserved and protected.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 10, 1984.

By Vern Ziegler

Chairman, Game Commission

AMENDATORY SECTION (Amending Order 205, filed April 14, 1983)

WAC 232-14-010 HYDRAULIC CODE GUIDE-LINES. The State Hydraulic Code, RCW 75.20.100, is jointly administered by the Departments of Fisheries and Game, by law separate agencies. That code requires that prior to construction or other work that will use, divert, obstruct, or change the natural flow or bed of any river or stream or that will utilize any of the waters of the state or materials from the stream beds, that written approval be obtained from the Directors of the Departments of Fisheries and Game. Rules establishing procedures for obtaining a hydraulic approval and explaining criteria, policies and procedures typically utilized by the Departments of Fisheries and Game in administering the Hydraulic Code have been jointly promulgated by the two agencies. The body of the regulations is codified as WAC Chapter 220-110-010 et. seq., which can be found under rules and regulations codified for the Department of Fisheries. Those rules ((WAC)) Chapter 220-110 WAC as last amended by the Department of Fisheries Order 84-04, are here adopted by reference and also made a part of ((WAC)) Title 232 WAC.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 84-05-004 ATTORNEY GENERAL OPINION Cite as: AGO 1984 No. 3 [February 2, 1984]

OFFICES AND OFFICERS—STATE—PARKS AND RECREATION COMMISSION—BOATS—PROMULGATION OF RECREATIONAL BOATING STANDARDS

The Washington State Parks and Recreation Commission does not now have the authority, under § 52, chapter 3, Laws of 1983, 2nd Ex. Sess., to promulgate and enforce rules of general state—wide applicability prescribing recreational boating safety standards and equipment, consistent with Coast Guard regulations and standards.

Requested by:

Honorable Jan Tveten, Director Washington State Parks and Recreation Commission 7150 Cleanwater Lane Olympia, Washington 98504

WSR 84-05-005 ADOPTED RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Order 83-37—Filed February 6, 1984]

I, Sam Kinville, director of the Department of Labor and Industries, do promulgate and adopt at Room 334, General Administration Building, Olympia, Washington 98504, the annexed rules relating to WAC 296-81-007 national elevator code adopted, 296-81-340 handrails, 296-81-360 hall lantern and 296-81-991 civil penalties. WAC 296-81-007 is amended to adopt the American National Standards Institute (ANSI) A17.1a-1982 supplement to the ANSI A17.1 code. The supplement will cover all elevators, dumbwaiters, escalators, and moving walks installed on or after March 1, 1984. WAC 296-81-340 is amended to specify when the ends of handrails in an elevator car must be turned toward the wall of the car. WAC 296-81-360 is amended to delete the requirement of using the colors white and red to indicate whether an elevator will be proceeding up or down. New WAC 296-81-991 is added to set penalties for violations of the conveyance law, chapter 70.87 RCW, or of any rule adopted under that law. Chapter 70.87 RCW was amended in the 1983 legislative session by SSB 3052 (chapter 123, Laws of 1983). The amendment authorizes the department to assess administrative penalties of up to \$500.00 for violations of the law; the penalties must be set by rule.

This action is taken pursuant to Notice Nos. WSR 83-22-003 and 84-03-008 filed with the code reviser on October 20, 1983, and January 6, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 70.87.185 and 70.87.034 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED February 6, 1984.

By Sam Kinville Director

AMENDATORY SECTION (Amending Order 82-18, filed 5/20/82)

WAC 296-81-007 NATIONAL ELEVATOR CODE ADOPTED. (1) The American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, American National Standards Institute A17.1, as amended or revised through ((the year)) 1971, ((are hereby)) is adopted as the standards ((for compliance)) in this state for elevators, dumbwaiters, escalators, and moving walks installed from February 25, 1972, through June 30, 1982.

(2) The American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI A17.1, 1981 edition, is ((hereby)) adopted as the standard for elevators, dumbwaiters, escalators, and moving walks installed on or after July 1, 1982. This 1981 edition of ANSI A17.1 is supplemented by the ANSI A17.1a – 1982 supplement for elevators, dumbwaiters, escalators, and moving walks installed on or after March 1, 1984.

AMENDATORY SECTION (Amending Order 80-26, filed 12/10/80)

WAC 296-81-340 HANDRAILS. A handrail shall be provided on all walls of the car that are not used for normal exits. There shall be a space of (((1 1/2))) one and one-half inches between the wall and the rail. The rail shall be at a nominal height of (((35))) thirty-five inches from the floor. The hand grip portion of handrails shall be not less than (((1 1/4))) one and one-quarter inches ((nor)) or more than ((2)) two inches in width ((and)), shall be basically oval or round in cross-section, and shall have smooth surfaces with no sharp corners((; with handrail ends returned to the wall)). Handrails that approach each other or a blank car wall in the interior corners of the car need not be returned to the wall. If the end of the handrail presents an abrupt end on the closing jamb wall to persons entering a car that has a single-slide or two-speed entrance, the handrail end shall be returned to the wall.

AMENDATORY SECTION (Amending Order 80-26, filed 12/10/80)

WAC 296-81-360 HALL LANTERN. A visual and audible signal shall be provided at each hoistway entrance, indicating to the prospective passenger((, the)) which car is answering the call and its direction of travel.

The visual signal for each direction shall be ((direction indicators, white to indicate "UP" and red to indicate "DOWN" and shall be a minimum of (2 1/2))) at least two and one-half inches in size and visible from the

 $((\frac{\text{proximity}}{\text{proximity}}))$ vicinity of the hall call button. The audible signal shall sound once $((\frac{1}{\text{proximity}}))$ for the up direction and twice $((\frac{2}{\text{proximity}}))$ for the down direction.

The centerline of the fixture shall be located ((a minimum of (6))) at least six feet from the floor.

The ((use of in car)) lanterns ((conforming to above and)) may be located in the jamb ((shall be acceptable)) or in the car.

NEW SECTION

WAC 296-81-991 CIVIL PENALTIES. (1) An owner or operator of a conveyance that violates a provision of chapter 70.87 RCW, or of the rules adopted under that chapter, is liable for a civil penalty based on the following schedule.

(a) Construction of a conveyance without a per	mit:
--	------

First violation	
Second violation	\$300.00
Each additional violation	\$500.00

(b) Installation of a conveyance without a permit:

First violation	\$150.00
Second violation	\$300.00
Each additional violation	\$500.00

(c) Relocation of a conveyance without a permit:

First violation	\$150.00
Second violation	\$300.00
Each additional violation	\$500.00

(d) Alteration of a conveyance without a permit:

First violation	\$150.00
Second violation	\$300.00
Each additional violation	\$500.00

- - (f) Failure to comply with a correction notice:

Within 90 days	\$100.00
Within 91–180 days	\$250.00
Within 181–270 days	\$400.00
Within 271-360 days	\$500.00

- (2) A violation will be a "second" or "additional" violation only if it occurs within one year of the first violation.
- (3) The department shall by certified mail notify a person of its determination that the person has violated this section.
- (4) A person aggrieved by a notice of the department under this section may request a hearing to contest the department's determination that a violation has occurred or to contest the penalty. The request for hearing must be in writing, and must be accompanied by a certified or cashier's check for two hundred dollars payable to the department. The request for hearing must be postmarked, or must be received by the department, within fifteen days after the person receives the order of the department.

WSR 84-05-006 EMERGENCY RULES DEPARTMENT OF FISHERIES

[Order 84-06-Filed February 6, 1984]

- I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.
- I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is harvestable numbers of sturgeon are available, and these rules are adopted pursuant to the Columbia River compact.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED February 3, 1984.

By William R. Wilkerson Director

NEW SECTION

WAC 220-32-02000L LAWFUL GEAR—SEA-SONS—STURGEON GILLNET. Notwithstanding the provisions of WAC 220-32-020, and WAC 220-32-040, it is unlawful to take, fish for or possess sturgeon taken for commercial purposes with gill net gear in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D or Area 1E, except as provided for in this section:

- (1) Lawful fishing period is:
 - 12:00 noon February 6, to 12:00 noon February 10, 1984
- (2) It is unlawful to use gear other than single-wall, drift gill nets no more than 250 fathoms in length on which slackers, defined as a single piece of material or cord not webbing or mesh connected vertically or woven in the mesh of the net between the cork and lead line and used to tie the netting in a shortened state to give the net flexibility, may be used. The minimum mesh size is 9 inches measured from the inside of one knot to the outside of a diagonal knot stretched at no more than a 1 pound pull.
- (3) It is unlawful to retain any sturgeon not of lawful size, as provided for in WAC 220-20-020, and all sturgeon in transit must not have head or tail removed.
- (4) It is lawful to retain sturgeon for commercial purposes taken incidental to any lawful commercial salmon fishery.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-02200K LAWFUL GEAR—SEA-SONS—STRUGEON (84-03)

Reviser's note: Errors of punctuation or spelling in the above repealer occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

WSR 84-05-007 NOTICE OF PUBLIC MEETINGS URBAN ARTERIAL BOARD

[Memorandum-February 2, 1984]

As required by RCW 42.30.075 the following is the meeting schedule for the Urban Arterial Board's regular meetings in 1984.

April 20, 1984 July 20, 1984 October 19, 1984

WSR 84-05-008 ADOPTED RULES LOTTERY COMMISSION

[Order 51—Filed February 7, 1984]

Be it resolved by the State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

Amd	WAC 315-04-180	Obligations of licensed agents.
Amd	WAC 315-06-130	Prizes payable after death or disability
		of owner.
Amd	WAC 315-10-020	Definitions.
Amd	WAC 315-10-030	Instant games criteria.
Amd	WAC 315-10-060	Official end of game.
Amd	WAC 315-11-071	Criteria for Instant Game Number 5.
Amd	WAC 315-11-081	Criteria for Instant Game Number 6.
Amd	WAC 315-12-030	Description of central and field organi-
		zation of the commission and the
		director.
New	WAC 315-30-080	On-line agent selection criteria.

This action is taken pursuant to Notice Nos. WSR 83-19-072, 84-01-071 and 84-01-072 filed with the code reviser on September 21, 1983, and December 21, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

WAC 315-30-090 On-line agent credit criteria.

This rule is promulgated pursuant to RCW 67.70.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

New

APPROVED AND ADOPTED February 3, 1984.

By Lawrence G. Waldt

Chairman

AMENDATORY SECTION (Amending Order 36, filed 9/12/83)

WAC 315-04-180 OBLIGATIONS OF LICENSED AGENTS. (1) All tickets accepted by the licensed agent from its assigned depository shall be considered sold to the licensed agent (unless returned to the depository from which they were obtained within the time specified and as permitted by the director). The purchase price shall be paid to the depository, less the value of lower tier prizes in each book and any ((commission or deduction[s])) discount authorized by these rules.

- (2) After acceptance, the licensed agent is responsible for the condition and security of the tickets and for any losses resulting from tickets which become lost, stolen, mutilated, damaged or otherwise unsaleable. The director shall not reimburse the licensed agent for any losses which occur after acceptance of the tickets or for which the lottery has no duty or responsibility.
- (3) Each licensed agent shall abide by the law, these rules and all other directives or instructions issued by the director.
- (4) Each licensed agent grants to the director and the commission and employees of the commission an irrevocable license to enter upon the premises of the licensed agent in which tickets may be sold or any other location under the control of the licensed agent where the director may have good cause to believe lottery materials and/or tickets are stored or kept in order to inspect said lottery materials and/or tickets and the licensed premises.
- (5) All property given, except tickets, to a licensed agent remains the property of the director, and, upon demand, the licensed agent agrees to deliver forthwith the same to the director.
- (6) All books and records pertaining to the licensed agent's lottery activities shall be made available for inspection and copying, during the normal business hours of the licensed agent and between 8:00 a.m. and 5:00 p.m., Monday through Friday, upon demand by the director or employees of the commission.
- (7) All books and records pertaining to the licensed agent's lottery activities shall be subject to seizure by the director or employees of the commission without prior notice.
- (8) No licensed agent shall advertise or otherwise display advertising in any part of the licensed agent's premises as a licensed location which may be considered derogatory or adverse to the operations or dignity of the lottery and the licensed agent shall remove any advertising forthwith if requested by the director.

AMENDATORY SECTION (Amending Order 2, filed 10/15/82)

WAC 315-06-130 PRIZES PAYABLE AFTER DEATH OR DISABILITY OF OWNER. (1) All prizes or a portion thereof which remain unpaid at the time

- of the prize winner's death shall be payable to ((his or her)) the court appointed representative of ((his or her)) the prize winner's estate once satisfactory evidence of said representative appointment has been presented to the director, claim forms have been properly filled out, and the director is satisfied that such payment is lawful and proper.
- (2) Prize ((monies)) moneys will be paid according to the law of descent and distribution, chapter 11.04 RCW, of the state of Washington if the owner thereof dies intestate regardless of whether ((he or she)) the prize winner was domiciled at the time of ((his or her)) the prize winner's death in the state of Washington.
- (3) The director may rely wholly on the presentment of certified copies of a court's appointment of an administrator or executor, guardian, conservator or on any other evidence of a person entitled to the payment of any prize winnings then due.
- (4) The payment to the estate of the deceased owner of any prize winnings by the director shall absolve the director, the commission and employees of the commission of any further liability for payment of said prize winnings. The director need not look to the payment of the prize winnings beyond the payee thereof.
- (5) ((Under no circumstances will the payment of prize money be accelerated.)) The estate of a deceased prize winner may elect to have the payment of an installment prize accelerated and paid to the estate at the installment prize's present cash value in lieu of receiving continued payments.
- (6) The director may petition any court of competent jurisdiction to request a determination for the payments of any prize winnings which are or may become due the estate of a deceased owner or an owner under a disability because of, but not limited to, underage, mental deficiency, or physical or mental incapacity.
- (7) If the legatee(s) or heir(s) of a deceased owner entitled to prize winnings obtains an order from a court of competent jurisdiction directing payments due and to become due from the director to be paid directly to said legatee(s) or heir(s) or otherwise directs the director to make payments to another in the event of an owner's disability or otherwise, the director shall pay the prize winnings accordingly.

AMENDATORY SECTION (Amending Order 14, filed 2/10/83)

WAC 315-10-020 DEFINITIONS. (1) Ticket. The ticket purchased for participation in an instant game.

- (2) Instant game. A game in which a ticket is purchased and upon removal of a latex covering on the front of the ticket, the ticket bearer determines his or her winnings, if any.
- (3) Ticket bearer. The person who has signed the ticket or has possession of the unsigned ticket.
- (4) Play numbers. The numbers or symbols appearing in the designated areas under the removable covering on the front of the ticket.
- (5) Validation number. The multi-digit number found ((underneath the "Void if Removed" area)) on the ticket

and on any ticket stub. There must be a validation number on the ticket or any stub.

AMENDATORY SECTION (Amending Order 30, filed 8/27/83)

- WAC 315-10-030 INSTANT GAMES CRITE-RIA. (1) The price of an instant game ticket shall not be less than \$1.00 and not more than \$5.00.
- (2) Winners of an instant game are determined by the matching or specified alignment of the play numbers on the tickets. The ticket bearer must notify the lottery of the win and submit the winning ticket to the lottery as specified by the director. The winning ticket must be validated by the lottery through use of the validation number and/or any other means as specified by the director.
- (3) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.
- (4) The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier prizes are of less than \$25.00. Higher tier prizes are of \$25.00 or more. The director shall determine the number of lower and higher tier prizes.
- (5) The length of operation of an instant game shall not exceed fifteen weeks. The start date and closing date of the instant game shall be publicly announced.
- (6) There is no required frequency of drawing or method of selection of a winner in an instant game.
- (7) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:
- (a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from redeemed tickets ((winning certain minimum prizes)) meeting the criteria stated in specific game rules as determined by the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.
- (b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director to correspond with the size and length of the instant game and to comply with subsection (3) ((above)) of this section.
- (c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.
- (8) Procedures for claiming instant game prizes are as follows:
- (a) To claim an instant (([game])) game prize of less than \$25.00, the claimant shall present the winning ticket to the licensed agent from whom the ticket was

- purchased. The licensed agent shall verify the claim and, if acceptable, make payment of the amount due the claimant. In the event the licensed agent cannot verify the claim, the claimant shall fill out a claim form, as provided in WAC 315-06-120, which shall be obtained from the licensed agent and present the completed form, together with the disputed ticket to the director. If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.
- (b) To claim an instant prize of \$25.00 or more, the claimant shall complete a claim form, as provided in WAC 315-06-120, which is obtained from the licensed agent or the director and mail((, by registered or certified mail,)) the completed form together with the winning ticket to the director. Upon validation by the director, a check shall be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.
- (c) Any ticket not passing all the validation checks specified by the director is ((void)) invalid and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

AMENDATORY SECTION (Amending Order 42, filed 12/8/83)

- WAC 315-10-060 OFFICIAL END OF GAME. (1) The director shall announce the official end of each instant game. A player may submit a low-tier winning ticket to the licensed agent from whom the ticket was purchased or the lottery and a high-tier winning ticket to the lottery for prize payment up to one hundred and eighty days after the official end of game. In order to participate in a grand prize drawing a player must redeem a ticket which qualifies for entry into that grand prize drawing within the time limits set forth in chapter 315-11 WAC governing the conduct of that specific game.
- (2) A licensed agent may continue to sell tickets for each instant game up to ((thirty)) fourteen days after the official end of that game.
- (3) A licensed agent must return to the lottery unsold lottery tickets for each game within thirty days of the official end of that game in order to receive credit from the lottery as provided for in the licensed agent contract or the interlocal cooperative agreement between the lottery and the state liquor control board. The lottery has no obligation to grant credit for tickets returned more than thirty days after the official end of game.

AMENDATORY SECTION (Amending Order 33, filed 8/5/83)

WAC 315-11-071 CRITERIA FOR INSTANT GAME NUMBER 5. (1) The price of each instant game ticket shall be \$1.00.

- (2) Determination of prize winning tickets An instant prize winning ticket is determined in Instant Game Number 5 in the following manner:
- (a) A "1 free ticket" prize winning ticket shall have an occurrence of a rabbit as a play number in each of 3 separate spots on the ticket;
- (b) A \$2 prize winning ticket shall have an occurrence of "10" as a play number in each of 3 separate spots on the ticket:
- (c) A \$5 prize winning ticket shall have an occurrence of "J" as a play number in each of 3 separate spots on the ticket:
- (d) A \$50 prize winning ticket shall have an occurrence of "Q" as a play number in each of 3 separate spots on the ticket;
- (e) A \$1,000 prize winning ticket shall have an occurrence of "K" as a play number in each of 3 separate spots on the ticket;
- (f) A \$25,000 prize winning ticket shall have an occurrence of "A" as a play number of 3 separate spots on the ticket:
- (g) In any event, only the highest instant prize amount meeting the standards of (a) through (f) of this subsection will be paid on a given ticket.
- (3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.
- (4) The determination of prize winners shall be subject to the general ticket validation requirements, to the particular validation requirements for Instant Game Number 5, and to the requirements set forth on the back of each ticket.
- (5) Instant prize winning tickets shall be redeemed in the manner set forth on the back of the ticket. Provided, the bearer of a "1 free ticket" prize winning ticket who submits the ticket to the lottery for redemption shall receive a prize of \$1.00 in lieu of a free ticket.
- (6) Participants in the grand prize drawings shall be those validated instant prize winners of exactly \$50 who submit prize claims within 30 days after the announced end of Instant Game Number 5 in the manner prescribed on the back of the instant ticket. One grand prize drawing will be held for Instant Game Number 5 after that game's conclusion, at a time and place and pursuant to the methods to be announced by the director. The prizes to be awarded in the grand prize drawing will be: One 1st prize of \$1,000 a week for life with the weekly prize payments starting at age 18 or older, with a minimum payment of \$1,000,000 guaranteed to the winner; one 2nd prize of \$500,000 paid as \$50,000 per year for ten years; one 3rd prize of \$200,000 paid as \$20,000 per year for ten years; one 4th prize of \$75,000 cash; two 5th prizes of \$50,000 cash each; and four 6th prizes of \$25,000 cash each. The director reserves the right provided by WAC 315-10-030 (7)(a) to place any instant prize winner who is entitled to entry in a grand

prize drawing whose entry was not entered into the elimination drawing for such grand prize drawing and who is subsequently determined to have been entitled to such entry, into the elimination drawing of a subsequent instant game grand prize drawing having equal (or greater) grand prizes available.

- (7) Notwithstanding any other provisions of these rules, the director may: (a) Vary the length of Instant Game Number 5 not to exceed 15 weeks, and/or (b) vary the number of tickets sold in Instant Game Number 5 and the number of grand prize drawing winners in a manner that will maintain the estimated average odds of winning a grand prize drawing.
- (8) "Magic Bonus Bucks Lottery" For Instant Game Number 5:
- (a) There will be weekly drawings from entries containing three valid nonwinning "Magic Card" tickets conducted at times, places and in a manner to be announced by the director.
- (b) It is anticipated that there will be nine "Magic Bonus Bucks Lottery" drawings and that two hundred fifty prizes of \$100 each will be awarded in each of the drawings.
- (c) To be eligible for entry into a "Magic Bonus Bucks Lottery" drawing, a person must:
- (i) Be eligible to win a prize pursuant to chapter 67-.70 RCW and Title 315 WAC.
- (ii) Collect three valid nonwinning "Magic Cards" instant game tickets. A valid nonwinning ticket is a ticket which meets all the requirements of these rules and regulations but which does not otherwise qualify for any other prize established in this section.
- (iii) Write or print legibly, the entrant's name and address on the back of at least one of the three tickets or on a separate sheet of paper. An entry containing more than one name and/or address shall be disqualified.
- (iv) Place the three tickets in a single envelope, no larger than 4-1/2" x 10-3/8". An envelope which contains extraneous material or which has had the exterior altered for the apparent sole purpose of making the envelope more prominent shall be disqualified.
- (v) Mail the envelope with proper postage and a legible return address of the entrant to:

Magic Bonus Bucks Lottery Tumwater, WA 98502

or deliver it in person during normal business hours to:

Office of the Director
Washington State Lottery
600 Park Village Plaza
1200 Cooper Point Road S.W.
Olympia, Washington

- (d) There is no limit to the number of entries a person may submit but each entry must be submitted in a separate envelope and both the entry and the entrant of each must meet the qualifications set forth above.
- (e) Entries received by the lottery by noon of each Friday following the start of sales of "Magic Cards" instant game tickets shall be entitled to participation in the "Magic Bonus Bucks Lottery" drawing to be held from all entries received by that same deadline. Entries

received after that deadline except those received after the deadline for the final "Magic Bonus Bucks Lottery" drawing, shall be entitled to participation in the next "Magic Bonus Bucks Lottery" drawing. The deadline for entry and the date of the final "Magic Bonus Bucks Lottery" drawing may be varied at the discretion of the director. The director reserves the right to place an entry which was entitled to, but which was not entered into a "Magic Bonus Bucks Lottery" drawing into a subsequent "Magic Bonus Bucks Lottery" drawing.

(f) An entry which contains one or more stolen tickets may be disqualified by the director.

(g) A nonconforming entry, at the sole discretion of the director, may be disqualified.

(h) Notwithstanding any other provisions of these rules, the director may vary the number of "Magic Bonus Bucks Lottery" drawings and/or "Magic Bonus Bucks Lottery" drawing winners.

(i) The lottery will not be responsible for any other material, including winning tickets, mailed or delivered to the "Magic Bonus Bucks Lottery." All mail not drawn will be incinerated unopened.

AMENDATORY SECTION (Amending Order 35, filed 9/12/83)

WAC 315-11-081 CRITERIA FOR INSTANT GAME NUMBER 6. (1) The price of each instant game ticket shall be \$1.00.

- (2) Determination of instant prize winners An instant prize winning ticket is determined in Instant Game Number 6 in the following manner:
- (a) A "free ticket" prize winning ticket shall have an occurrence of a "TICKET" as play number in each of 3 separate spots on the main portion of the ticket.
- (b) A \$2 prize winning ticket shall have an occurrence of a "\$2.00" as a play number in each of 3 separate spots on the main portion of the ticket.
- (c) A \$5 prize winning ticket shall have an occurrence of a "\$5.00" as a play number in each of 3 separate spots on the main portion of the ticket.
- (d) A \$50 prize winning ticket shall have an occurrence of a "50.00" as a play number in each of 3 separate spots on the main portion of the ticket.
- (e) A \$100 prize winning ticket shall have an occurrence of a "\$100" as a play number in each of 3 separate spots on the main portion of the ticket.
- (f) A \$1,000 prize winning ticket shall have an occurrence of a "\$1,000" as a play number in each of 3 separate spots on the main portion of the ticket.
- (g) A \$25,000 prize winning ticket shall have an occurrence of a "25,000" as a play number in each of 3 separate spots on the main portion of the ticket.
- (h) In any event, only the highest instant prize amount meeting the standards of (a) through (g) of this subsection will be paid on a given ticket.
- (3) Bonus play If the director implements "bonus play" in conjunction with Instant Game Number 6 it shall operate as follows:
- (a) The lottery will authorize official coupons to be distributed to the extent and by methods to be determined by the director.

- (b) The coupon shall contain a play number of "TICKET" or "\$1,000."
- (c) The bearer of a valid Instant Game Number 6 ticket having a "TICKET" as a play number in each of 2 separate spots on the main portion of the ticket and an officially authorized and valid coupon containing the play number of "TICKET" shall be entitled to one free ticket.
- (d) The bearer of a valid Instant Game Number 6 ticket having a "\$1,000" as a play number in each of 2 separate spots on the main portion of the ticket and an officially authorized and valid coupon containing the play number of "\$1,000" shall be entitled to a prize of \$1,000
- (e) The director may announce such other procedures and rules applicable to "bonus play" as are deemed appropriate.
- (4) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as part of the instant game.
- (5) The determination of prize winners shall be subject to the general ticket validation requirements, to the particular ticket validation requirements for Instant Game Number 6, and to the requirements set out on the back of each ticket.
- (6) Instant prize winning tickets shall be redeemed in the manner set out on the back of the ticket and in the player's brochure.
- (7) Grand prize drawing for Instant Game Number 6 Participants in the elimination drawing for the grand prize drawing shall be determined as follows:
- (a) The ((same)) legible name and address of an eligible player must be present on the back of ((each)) at least one of the five ticket stubs or on a separate sheet of paper. An entry containing more than one name and/or address shall be disqualified.
- (b) Five stubs containing these five stub play numbers must be present: "E," "N," "T," "R," and "Y."
- (c) The stubs constituting the entry into the elimination drawing for the grand prize drawing must have been mailed to the correct address as advertised by the lottery and received within 30 days of the announced end of Instant Game Number 6 in the manner prescribed on the back of the instant ticket. Players will be eligible for participation in the elimination drawing for the grand prize drawing for each valid set of ticket stubs submitted.
- (d) Each stub must be a valid Instant Game Number 6 "Money Match" ticket stub.

One grand prize drawing will be held for Instant Game Number 6 after that game's conclusion at a time and place and pursuant to methods to be announced by the director. The prizes awarded in the grand prize drawing will be: First prize, \$1,000 a week for life, with the weekly prize payment starting at age 18 or older, with a minimum payment of \$1,000,000 being guaranteed; second prize, \$500,000 paid as \$50,000 per year for 10 years; third prize, \$200,000 paid as \$20,000 a year for 10 years; fourth prize, \$75,000 cash; fifth and sixth prizes, \$50,000 cash each; seventh and eighth prizes: \$25,000 cash each; and, ninth and tenth prizes, \$10,000 cash each. The director reserves the right, as provided by

WAC 315-10-030 (7)(a), to place any ticket stubs bearer who is entitled to entry in the grand prize drawing whose entry was not entered into the elimination drawing for such grand prize drawing and who is subsequently determined to have been entitled to such entry, into an elimination drawing of a subsequent instant game grand prize drawing having equal (or greater) grand prizes available.

(8) Notwithstanding any other provisions of these rules, the director may: (a) Vary the length of Instant Game Number 6, not to exceed 15 weeks, and/or (b) vary the number of tickets sold in Instant Game Number 6 and the number of grand prize drawing winners in a manner that will maintain the estimated average odds of winning a grand prize drawing.

AMENDATORY SECTION

WAC 315-12-030 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION OF THE COMMISSION AND THE DIRECTOR. The administrative office of the commission and director is located at 600 Park Village Plaza, 1200 Cooper Point Road SW, Olympia, WA 98502. Regional offices of the director located in other cities are as follows:

EVERETT REGION Diagonal Way Business Center 909 Southeast Everett Mall Way Everett, WA 98204	(a) Sales Representative (b) Ticket Warehousing
OLYMPIA REGION ((600)) 108 Park Village Plaza 1200 Cooper Point Road SW Olympia, WA 98502	(a) Sales Representative (b) Ticket Warehousing
((SEATTLE)) <u>TUKWILA</u> REGION 814 Industry Drive Tukwila, WA 98188	(a) Sales Representative (b) Ticket Warehousing
SPOKANE REGION Montgomery Commerce Center Suite #1 East 10807 Montgomery Avenue Spokane, WA 99207	(a) Sales Representative (b) Ticket Warehousing
VANCOUVER REGION Yearout Industrial Park 12004 Northeast 95th Street Suite 800 Vancouver, WA 98662	(a) Sales Representative (b) Ticket Warehousing
YAKIMA REGION 421 East Chestnut Avenue Yakima, WA 98901	(a) Sales Representative(b) Ticket Warehousing

All records of the commission and director are maintained in the administrative office in Olympia.

NEW SECTION

WAC 315-30-080 ON-LINE AGENT SELECTION CRITERIA. (1) The selection and distribution of on-line agents throughout the state will be based on:

- (a) The number of licensed agents in each of the regions identified in WAC 315-12-030, and then;
- (b) The potential for revenue generation, demographics, and public accessibility within that region.

- (2) An on-line license endorsement shall be issued only to a person who possesses a valid general license.
- (3) In addition, the director shall consider the following factors in the selection of on-line agents.
- (a) Business and security considerations which include but are not limited to: (i) Instant game accounts receivable record, (ii) criminal history of owners and officers, (iii) history of criminal activity at the business establishment, (iv) past security problems, (v) credit rating as defined in WAC 315-30-090, (vi) licensing requirements, and (vii) history of administrative or regulatory actions.
- (b) Marketing considerations which include but are not limited to: (i) Customer traffic and sales volume, (ii) lottery—oriented consumers, (iii) market potential, and (iv) management commitment to lottery products.
- (4) The lottery will install approximately five hundred TDMs initially with approximately fifty TDMs added each month for the first twelve months and approximately twenty-five TDMs per month thereafter. The director shall determine the total number of TDM's to be installed throughout the state. In determining the order in which TDMs will be installed within a given geographic area, the following factors will be considered:
 - (a) Demonstrated high-volume instant ticket sales;
 - (b) High customer traffic;
 - (c) Easy in and out access;
 - (d) Management commitment to lottery products; and
 - (e) Store traffic patterns relative to TDM placement.
- (5) The director may, after a TDM has been in operation for six months, order the removal of a TDM from an on-line agent location after considering marketing factors which include but are not limited to:
- (a) Accessibility of the on-line agent's place of business to the public;
- (b) Sufficiency of TDMs in the geographic area to provide public accessibility; and
- (c) A nonmetropolitan area on-line agent's average on-line sales volume over four consecutive weeks; or
- (d) A metropolitan area on-line agent's failure to meet the average on-line minimum sales volume requirement of two thousand five hundred dollars per week over four consecutive weeks.
- (6) The director may immediately discontinue a TDM's operation, order removal of a TDM from an online agent location, or take any other action authorized under WAC 315-04-200 in the event that the on-line agent:
- (a) Fails to comply with any rule established by the commission, any instruction issued by the director, or any terms of the licensed agent contract or on-line agent contract addendum;
- (b) Tampers with or attempts to tamper with the TDM or on-line system;
 - (c) Fails to make payment of a prize; or
- (d) Makes payment with a business check and the check is dishonored for any reason.

NEW SECTION

WAC 315-30-090 ON-LINE AGENT CREDIT CRITERIA. (1) The director shall deny an on-line license endorsement and on-line contract addendum to

any applicant whose credit is rated as poor or marginal as defined in this section.

- (2) The director shall require on-line applicants whose credit is rated as minimum as defined in this section to obtain a surety bond or post cash in lieu of a bond under terms and conditions established by the director prior to issuance of the on-line license endorsement and on-line contract addendum. Such surety bond must be secured from a company licensed to do business in the state of Washington. The bond or cash shall be in the amount of seven thousand five hundred dollars unless the director determines a higher amount is required.
- (3) In the event the agent's credit is rated as poor or marginal subsequent to the issuance of the license endorsement and contract addendum the director may:
- (a) Revoke or suspend an agent's on-line license endorsement and/or terminate an agent's on-line contract addendum and/or;
- (b) Require such an agent to secure a surety bond from a company licensed to do business in the state of Washington or post cash in lieu of a bond under terms and conditions established by the director. The surety bond or cash shall be in the amount of seven thousand five hundred dollars unless the director determines, based on sales volume and financial solvency of the agent, a higher amount is required.
 - (4) Credit ratings are defined as follows:
- (a) Business credit includes currently reporting accounts payable and payment records up to six months prior to the lottery's credit check request. Accounts are evaluated by the percentage of the balance outstanding in each of the following categories: Zero to thirty days, thirty—one to sixty days, sixty—one to ninety days, and ninety—one plus days.
- (i) A "poor" credit rating indicates that at least half of the accounts are in the sixty-one days and over categories.
- (ii) A "marginal" credit rating indicates that at least half of the accounts are in the thirty—one days and over categories.
- (iii) A "minimum" credit rating indicates the information is insufficient for evaluation.
- (iv) An "acceptable" credit rating indicates that the majority of current accounts are in the zero to thirty days payment category.
- (b) Personal credit includes current reporting personal accounts payable, including public financial record information up to seven years prior to the lottery's credit check request. A significant incident shall be defined as public record information which includes any lien, judgment, or bankruptcy or any similar incident which is publicly recorded and reflects on the individuals willingness and ability to pay creditors. A numerical rating of "one" represents excellent credit. A numerical rating of "nine" represents involuntary collection.
- (i) A "poor" credit rating indicates at least half of the accounts are rated over "five", and/or the public record information indicates three or more significant incidents within the past three years.
- (ii) A "marginal" credit rating indicates that at least half of the accounts are rated over "three", and/or the

- public record information indicates one or more significant incidents within the past three years.
- (iii) A "minimum" credit rating indicates the information is insufficient for evaluation.
- (iv) An "acceptable" credit rating indicates that the majority of the reporting accounts are rated under "three" and that there have been no significant incidents in the public record within the past three years.

WSR 84-05-009 EMERGENCY RULES DEPARTMENT OF AGRICULTURE

[Order 1811—Filed February 7, 1984]

- I, M. Keith Ellis, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to establishing tolerances for the chemical ethylene dibromide.
- I, M. Keith Ellis, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in order to protect the health and welfare of the citizens of the state of Washington from food products potentially contaminated with the ethylene dibromide (EDB) residues, this order is necessary for the department to take action to remove foods from the marketplace that could contain EDB in excess of tolerances recommended by the Environmental Protection Agency.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapters 17.21 and 69.04 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED February 7, 1984.

By M. Keith Ellis Director

NEW SECTION

WAC 16-228-340 ESTABLISHING TOLER-ANCES FOR THE CHEMICAL ETHYLENE DIBROMIDE (EDB). (1) As recommended by the Environmental Protection Agency the following tolerances have been established for the chemical ethylene dibromide and shall not exceed these levels in the state of Washington:

- (a) Unprocessed grain and grain-related products for human consumption not to exceed nine hundred parts per billion;
- (b) Products requiring cooking, i.e., cereals, flour, cake mixes, etc. not to exceed one hundred fifty parts per billion;

(c) Ready to eat products, i.e., snack food, bread, etc. – not to exceed thirty parts per billion.

WSR 84-05-010 ADOPTED RULES STATE PATROL

[Order 82-3-Filed February 7, 1984]

Be it resolved by the Washington State Patrol, acting at Olympia, Washington, that it does adopt the annexed rules relating to transportation of hazardous materials, hazardous waste, and radioactive waste materials, chapter 446-50 WAC.

This action is taken pursuant to Notice No. WSR 84–02–069 filed with the code reviser on January 4, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 46.48.170 which directs that the Washington State Patrol has authority to implement the provisions of RCW 46.48.170.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 7, 1984.

By Neil W. Moloney Chief

AMENDATORY SECTION (Amending Order 82-3, filed January 11, 1983)

TRANSPORTATION RE-WAC 446-50-080 QUIREMENTS. (1) The Washington State Patrol acting by and through the Chief of the Washington State Patrol after conferring with the committee created by RCW 46.48.190 hereby adopts the following parts of Title 49 Code of Federal Regulations, including all appendices and amendments thereto, as they exist ((on October 1982)) during 1984: 170 (Reserved), 171 General information, regulations, and definitions, 172 Hazardous materials table and hazardous materials communications regulations, 173 Shippers—General requirements for shipments and packaging, 177 Carriage on public highway, 178 Shipping container specifications, 180-189 (Reserved). Title 49 CFR, parts 100 through 199, relates to safety in the transportation of hazardous materials upon the public highways. This regulation is intended to apply only to the transportation of hazardous materials by highway in Washington, to the handling and storage operations incident to such transportation, and to the highway portion of an intermodal shipment of hazardous materials.

(2) Copies of Title 49 CFR, parts 100 through 199, now in force are on file at the Code Reviser's Office, Olympia, and at the Washington State Patrol Headquarters, Commercial Vehicle Enforcement Section, Olympia. Additional copies may be available for review

at Washington State Patrol District Headquarters Offices, public libraries, Washington Utilities and Transportation, Bureau of Motor Carrier Safety Office, Olympia. Copies of the CFR may be purchased through the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 84-05-011 ADOPTED RULES DEPARTMENT OF LICENSING (Board of Osteopathic Medicine and Surgery)

[Order PL 457—Filed February 7, 1984]

Be it resolved by the Washington State Board of Osteopathic Medicine and Surgery, acting at Seattle, Washington, that it does adopt the annexed rules relating to the amending of WAC 308-138-020, 308-138A-025, 308-138B-170, adding new section WAC 308-138B-165, and repealing WAC 308-138B-120.

This action is taken pursuant to Notice No. WSR 83-23-108 filed with the code reviser on November 23, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.57.005, 18.57A.020 and 18.57A.070 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 20, 1984.

By Arthur A. Clevenger, D.O.

Chairman

AMENDATORY SECTION (Amending Order PL 324, filed 11/29/79)

WAC 308-138-200 CONTINUING PROFES-SIONAL EDUCATION REQUIRED. (1) The board requires one hundred fifty credit hours of continuing professional education every three years. ((All osteopathic physicians currently licensed will be required to show evidence of one hundred fifty credit hours of continuing professional education by their license renewal date in 1983:))

(2) In case licensees fail to meet the requirements because of illness, retirement (with no further provision of osteopathic medical services to consumers), or other extenuating circumstances, each case will be considered by the board on an individual basis. When circumstances justify it, the board may grant an extension of time or a change in requirements. In the case of a permanent retirement or illness, the board may grant indefinite waiver of continuing education as a requirement for

relicensure, provided an affidavit is received indicating that the osteopathic physician and surgeon is not providing osteopathic medical service to consumers. If such permanent retirement or illness status is changed or osteopathic medical services are resumed, it is incumbent upon the licensee to immediately notify the board and show proof of practice competency as determined necessary by the board.

AMENDATORY SECTION (Amending Order PL 402 [PL 440], filed 8/5/82 [7/27/83])

WAC 308-138A-025 OSTEOPATHIC PHYSI-CIAN'S ASSISTANT PRESCRIPTIONS. An osteopathic physician's assistant may issue written or oral prescriptions as provided herein when approved by the board and assigned by the supervising physician.

- (1) Except for schedule two controlled substances as listed under federal and state controlled substances acts, a physician's assistant may issue prescriptions for a patient who is under the care of the physician responsible for the supervision of the physician's assistant.
- (a) Written prescriptions shall be written on the blank of the supervising physician and shall include the name, address and telephone number of the physician. The prescription shall also bear the name and address of the patient and the date on which the prescription was written.
- (b) The physician's assistant shall sign such a prescription by signing his or her own name followed by the letters "P.A." and the physician assistant's registration number or physician assistant drug enforcement administration registration number.
- (c) Prescriptions for legend drugs and controlled substances must each be approved or signed by the supervising physician prior to administration, dispensing or release of the medication to the patient, except as provided in (6) of this rule.
- (2) A physician's assistant extended privileges by a hospital, nursing home or other health care institution may, if permissible under the bylaws, rules and regulations of the institution, write medical orders, except those for schedule two controlled substances, for inpatients under the care of the physician responsible for his supervision.
- (3) To be authorized to issue prescriptions for schedule three through five controlled substances, a physician's assistant must be registered with the board of pharmacy and the drug enforcement administration.
- (4) The registration of a physician's assistant who issues a prescription in violation of these provisions shall be subject to revocation or suspension.
- (5) Physician's assistants may not dispense prescription drugs to exceed treatment for 48 hours. The medication so dispensed must comply with the state law prescription labeling requirement.
- (6) Authority to issue prescriptions without the prior approval or signature of the supervising physician may be granted by the board to an osteopathic physician's assistant who has:
- (a) Provided a statement signed by the supervising physician that he or she assumes full responsibility and

that he or she will review the physician assistant's prescription writing practice on an ongoing basis;

- (b) Passed the National Commission on Certification of Physician Assistants' certification examination;
- (c) Had five years experience in primary health care, including the use of prescription drugs;
- (d) Presented evidence to the board verifying his or her prescriptive writing experience and ability;
- (e) Demonstrated the necessity in the practice for authority to be granted permitting a physician assistant to issue prescriptions without prior approval or signature of the supervising physician.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 308-138B-165 ACUPUNCTURE – DEFINITION. Acupuncture is a traditional system of medical theory, oriental diagnosis and treatment used to promote health and treat organic or functional disorders, by treating specific acupuncture points or meridians. Acupuncture includes the following techniques:

- (a) use of acupuncture needles to stimulate acupuncture points and meridians.
- (b) use of electrical, mechanical or magnetic devices to stimulate acupuncture points and meridians.
 - (c) moxibustion.
 - (d) acupressure.
 - (e) cupping.
 - (f) gwa hsa (dermal friction technique).
 - (g) infrared.
 - (h) sonopuncture.
 - (i) laser puncture.
 - (j) dietary advice.
 - (k) manipulative therapies.
 - (1) point injection therapy (agua puncture).

These terms are to be understood within the context of the oriental medical art of acupuncture and as the board defines them.

AMENDATORY SECTION (Amending Order PL 402 [PL 440], filed 8/5/82 [7/27/83])

WAC 308-138B-170 ((X-RAYS AND LABORA-TORY TESTS. X-ray and laboratory tests are not approved techniques for use by osteopathic physicians' acupuncture assistants, and use of such techniques is expressly prohibited.)) No osteopathic physician's acupuncture assistant may prescribe, order, or treat by any of the following means ((or)), modalities((:)), or techniques:

- (1) Diathermy treatments
- (2) ultrasound or sonopuncture treatments
- (3) infrared treatments
- (4) electromuscular stimulation for the purpose of stimulating muscle contraction((s))
 - (5) x-rays
 - (6) laboratory tests

- (7) laser puncture
- (8) dietary therapy
- (9) manipulative therapies
- (10) point injection therapy (aqua puncture)
- (11) herbal remedies.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

Reviser's note: The error in the above caption occurred in the copy filed by the agency and appears herein pursuant to RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 308-138B-120 EXPERIENCE.

WSR 84-05-012 ADOPTED RULES DEPARTMENT OF ECOLOGY

[Order DE 83-38-Filed February 7, 1984]

I, Donald W. Moos, director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, Washington, the annexed rules relating to hazardous waste fee regulation, adopting chapter 173-305 WAC.

This action is taken pursuant to Notice No. WSR 83-22-079 filed with the code reviser on November 2, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 70.105A RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 7, 1984.

By Donald W. Moos Director

Chapter 173-305 WAC HAZARDOUS WASTE FEE REGULATION.

NEW SECTION

WAC 173-305-010 PURPOSE. This chapter implements the provisions of chapter 70.105A RCW (chapter 65, Laws of 1983 1st ex. sess.), establishing a means for funding hazardous waste control activities in this state. The purpose of this chapter is to describe the methods by which the department of ecology will assess certain fees, to whom the fees will be assessed, the

amount of such fees, provisions for exemption from and enforcement of fee assessments, coordination between the departments of ecology and revenue, and procedures for adjusting fees.

NEW SECTION

WAC 173-305-015 APPLICABILITY. (1) General. The requirements of WAC 173-305-010 through 173-305-020 and 173-305-080 through 173-305-090 apply to all persons who generate, recycle, transfer, treat, store, or dispose of hazardous wastes in this state.

- (2) Generators.
- (a) The requirements of WAC 173-305-030 through 173-305-050 apply only to those persons utilizing or operating identified sites.
- (b) The requirements of WAC 173-305-030 through 173-305-050 do not apply to:
- (i) Any person who is exclusively a small quantity generator (as described in chapter 173-303 WAC) during a calendar year;
- (ii) Any person who accepts hazardous waste only from small quantity generators (as described in chapter 173-303 WAC) and who then sends such hazardous waste off-site in accordance with chapter 173-303 WAC, provided that the person does not originate his own hazardous waste; and
- (iii) Any hazardous waste generated by a facility which is operating, for such hazardous waste, as a transfer facility under a permit administered pursuant to chapter 173-303 WAC, if such hazardous waste does not originate at the facility and has not been stored at the facility for more than one year.

For the purposes of (b) of this subsection, a person or facility originates a hazardous waste if such hazardous waste occurs as a result of a physical, chemical or biological process performed by the person or at the facility. A hazardous waste is not originated if, when it leaves a site, it is the same as when it arrived.

- (3) Facilities. The requirements of WAC 173-305-060 through 173-305-070 apply only to those persons who operate facilities which are subject to a permit administered pursuant to chapter 173-303 WAC.
- (4) Exclusions. The requirements of this chapter do not apply to:
- (a) Hazardous wastes which are not subject to regulations adopted pursuant to chapter 70.105 RCW;
 - (b) Radioactive wastes; or
- (c) Wastes generated primarily from the combustion of coal or other fossil fuels.

NEW SECTION

WAC 173-305-020 DEFINITIONS. Any terms not specifically defined in this section shall, for the purposes of this chapter, have the same meaning as given in WAC 173-303-040. The following terms are defined for the purposes of this chapter:

(1) "Annual gross income" of a business means the value proceeding or accruing during a calendar year by reason of the transaction of the business or service engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from

trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses;

- (2) "Business activities" means activities of any person subject to the generator fee of WAC 173-305-030 and who is "engaging in business" as this term is defined in chapters 82.04 and 82.16 RCW;
- (3) "Combined site" means any location which is both a facility and an identified site (as these terms are defined in this section);
- (4) "Dangerous waste" shall have the same definition as set forth in RCW 70.105.010(5) and shall specifically include those wastes designated as dangerous by rules adopted pursuant to chapter 70.105 RCW;
 - (5) "Department" means the department of ecology;
- (6) "Extremely hazardous waste" shall have the same definition as set forth in RCW 70.105.010(6) and shall specifically include those wastes designated as extremely hazardous by rules adopted pursuant to chapter 70.105 RCW:
- (7) "Facility" means all contiguous land, and structures, other appurtenances and improvements on the land used for recycling, transferring, treating, storing, or disposing of hazardous waste;
- (8) "Fee" means the annual hazardous waste control and elimination assessment fee imposed under RCW 70-.105A.030 and the fee for treatment, storage, and disposal facilities imposed under RCW 70.105A.040;
- (9) "Generate" means any act or process which produces hazardous waste or first causes a hazardous waste to become subject to regulation;
- (10) "Hazardous waste" means and includes all dangerous and extremely hazardous wastes;
- (11) "Identified site" means the same or geographically contiguous property, which may be divided by a public or private right of way, provided that access between the properties occurs at an intersection and crosses, as opposed to goes along, the right of way. Noncontiguous properties owned by the same person but connected by a right of way will be considered a single identified site if the person controls the right of way and can prevent public access. For the purposes of this chapter, a property (or properties) will be an identified site only if it meets the conditions described above in this subsection, and only if hazardous waste is generated there during a calendar year;
- (12) "Person" means an individual, trust, firm, joint stock company, partnership, association, state, public or private or municipal corporation, commission, political subdivision of a state, interstate body, the federal government including any agency or officer thereof, and any Indian tribe or authorized tribal organization;
- (13) "SIC" means standard industrial classification and refers to the four digit numbers assigned to business activities from the federal Office of Management and Budget's "Standard Industrial Classification Manual," revised 1983;

- (14) "Ton" means two thousand pounds; and
- (15) "Manufacturer," "retailer," "wholesaler," and "person engaging in service activities" shall have the meanings attributed to such terms in chapter 82.04 RCW and shall include all persons taxable for such activities under that chapter.

NEW SECTION

WAC 173-305-030 GENERATOR FEES. This section describes the methods and criteria by which the department will: Determine the business activities that will be assessed generator fees (subsection (1) of this section); determine and apportion annual gross income (subsection (2) of this section); develop the generator fee schedule (subsection (3) of this section); assess fees (subsection (4) of this section); and provide for exemption from or reduction of a fee (subsection (5) of this section).

- (1) Selection of businesses and generators. This subsection describes how the department will select those individuals and businesses who will be assessed a generator fee.
- (a) List of business activities. The legislature provided the following list of business activities which may be assessed a generator fee:
- (i) Exploring for, extracting, beneficiating, processing, or selling metallic or nonmetallic minerals;
- (ii) Exploring for, extracting, processing, or selling coal:
 - (iii) Producing, distributing, or selling electricity;
- (iv) Industrial or nonresidential contracting or heavy construction;
 - (v) Painting or sandblasting;
- (vi) Producing, processing, or selling rubber or plastics;
- (vii) Producing, processing, or selling glass, cement, or concrete:
- (viii) Cutting, milling, producing, preparing, or selling lumber or wood products, including wooden furniture or fixtures:
- (ix) Producing, preparing, or selling paper or allied products;
 - (x) Printing or publishing;
- (xi) Synthesizing, producing, processing, preparing, or selling chemicals or allied products;
- (xii) Exploring for, extracting, producing, processing, distributing, or selling petroleum or gas;
 - (xiii) Fabricating rubber or plastic products;
- (xiv) Beneficiating, processing, or selling primary or secondary metals;
- (xv) Fabricating metal products, including metal furniture or fixtures;
- (xvi) Fabricating, constructing, preparing, installing, or selling machinery or supplies;
- (xvii) Fabricating, constructing, installing, preparing, or selling electrical or electronic equipment, machinery, or supplies;
- (xviii) Fabricating, producing, preparing, or selling transportation equipment;
- (xix) Transporting by railroad, motor vehicle, or water vessel:
 - (xx) Telephone communication;

- (xxi) Drycleaning, photofinishing, or furniture refinishing;
- (xxii) Transferring, treating, storing, or disposing of solid, dangerous, or extremely hazardous wastes; and
- (xxiii) Repairing or servicing motor vehicles, railroad equipment, or water vessels.
- (b) Selecting businesses for assessment. The department will select businesses for assessing fees as described in this subsection. In general, two different mechanisms will be used to identify those persons who will be assessed a fee. For the purposes of this chapter, the groups selected by these two mechanisms will be named: specific businesses (procedures for selection are described in (b)(i) of this subsection); and nonspecific businesses (procedures for selection are described in (b)(ii) of this subsection).
- (i) Specific businesses. Any person who has notified pursuant to chapter 173-303 WAC as a generator of hazardous wastes and who utilizes or operates an identified site will be assessed a generator fee.
- (ii) Nonspecific businesses. The department will develop a list of businesses by standard industrial classification (SIC) numbers. This list appears in WAC 173-305-040 and will be developed on the following bases:
- (A) The businesses are included in the legislative list of subsection (1)(a) of this section; and
- (B) The information on specific businesses that have notified and reported as hazardous waste generators supports the inclusion of SIC numbers on the list.

The department of revenue will provide the names and addresses of businesses which conduct activities specified in the SIC list as requested by the department of ecology. The department of ecology will notify these businesses in writing that they have been identified as possible generators of hazardous waste. They will be requested to submit to the department of ecology within thirty days either a written description of their wastes (including but not limited to type, source and quantity for each waste), or else a signed and dated certification that they do not generate hazardous waste. The certification will be as follows:

"I certify that I am familiar with the requirements of chapter 173-303 WAC, Dangerous waste regulations, and with the waste designation procedures thereof, and that I do not believe any of my wastes to be hazardous wastes based on my own knowledge and on my inquiry of those individuals responsible for performing such hazardous waste designation procedures."

The department of ecology will use the information submitted by the nonspecific businesses, and any other pertinent information, to determine which of those businesses are subject to a generator fee. If a person certifies that his business does not generate hazardous waste, then he will not be assessed a fee. If a person submits information which shows that he generates a hazardous waste, then he will be assessed a generator fee calculated according to the procedures for specific businesses, with the information he has submitted being used in lieu of an annual report. If a person does not submit either a

- certification or information on his wastes, then the department of ecology will conclude that he is utilizing or operating an identified site and he will be assessed a generator fee calculated according to the procedures for nonspecific businesses.
- (c) Identified sites. For the purposes of this chapter, no property will be an identified site unless hazardous waste is generated there during a calendar year. Each identified site will be assessed one fee annually, the size of the fee to depend on the risk and quantity of the hazardous wastes generated there and the apportioned annual gross income of the site (see subsections (2) and (3) of this section). If one person utilizes or operates more than one identified site, he will be responsible for all fees assessed to his identified sites. To a reasonable extent, the department will attempt to determine all identified sites owned or operated by the same person. However, the department's inability to detect all identified sites owned or operated by the same person will not delay the issuance of assessments, nor will it form a just cause for refusal to pay an assessed fee.
 - (2) Annual gross income (AGI); apportionment.
- (a) Annual gross income. AGI for each person's assessed business will be obtained from the department of revenue. The AGI obtained from the department of revenue for persons whose business activities earn income without as well as within the state will reflect the portion of total AGI attributable to activities within the state. Such attribution will be calculated pursuant to chapters 82.04 and 82.16 RCW. AGI reported to the department of ecology shall be used solely for the purpose of determining fee amounts. Confidentiality of AGI shall be maintained in accordance with department of revenue laws, regulations, and procedures.
- (b) Apportionment. Except as otherwise provided in (b)(ii) and (iii) of this subsection, the department shall apportion AGI for specific businesses among identified sites utilized or operated by an assessed person as described in (b)(i) of this subsection. In the case of nonspecific businesses, the person's AGI will be apportioned as if he had only one identified site, except as provided in subsection (5) of this section. Whenever an apportioned AGI is calculated to a fraction of a cent, the figure will be rounded to the nearest whole cent (e.g., \$27,611.5235 would be rounded to \$27,611.52).
- (i) The department will apportion AGI equally among a person's identified sites without regard to the amount or nature of business at the sites. This will be done by dividing the total AGI for the assessed person by the number of his identified sites. For example:
- (A) AGI reported for a person's business is \$7,252,320.18. The person utilizes four identified sites to conduct his activities. Thus, the apportioned AGI for each identified site would be \$1,813,080.05;
- (B) AGI reported for a person's business is \$58,112.45. His business is conducted at two locations, but only one is an identified site. Therefore, the apportioned AGI for his identified site would be \$58,112.45.
- (ii) Any person who is subject to a fee may request, through the procedure described in subsection (5) of this section, that the department reapportion AGI among his identified sites according to each identified site's share

of AGI. His total AGI will still be apportioned only among his identified sites. The share of his total AGI reapportioned to an identified site will be determined by multiplying his total AGI by a factor derived from dividing the AGI contributed from the identified site to the total AGI by the AGI contributed from all of his identified sites. The following formula will be used:

$$AGI(R) = AGI x$$

$$\frac{AGI(IS)}{AGI (TIS)}$$

Where

AGI(R) = The share of AGI that will be reapportioned to an identified site

AGI = Total AGI attributable to the person's

business in the state

AGI(IS) = The AGI contributed by the identified site to the total AGI

AGI(TIS) = The sum of the AGI contributed by all of the person's identified sites

The following example shows how this reapportionment will work.

A generator's AGI for a calendar year is \$35,254,378.12. During that calendar year, he operates three identified sites at which hazardous wastes are generated. For this example, these sites will be identified as SA, SB, and SC. Site SA contributes \$5,464,212.04 to the generator's total AGI, site SB contributes \$2,372,011.09, site SC contributes \$675,283.87, and the balance of his AGI comes from other properties which are not identified sites. The sum of the AGI contributed by his three identified sites, AGI(TIS), is \$8,511,507.00. The share of the generator's AGI that will be reapportioned to site SA is calculated as (\$35,254,378.12) x $(\$5,464,212.04 \div \$8,511,507.00) = \$22,632,584.03$. For site SB the reapportionment is calculated as $(\$35,254,378,12) \times (\$2,372,011.09 \div \$8,511,507.00) =$ \$9,824,790.82. For site SC, the reapportionment is calculated as (\$35,254,378.12) x (\$675,283.87 \$8,511,507.00) = \$2,797,003.27. Thus, site SA would be in the greater than \$10,000,000 AGI category, and sites SB and SC would be in the \$1,000,000 to \$10,000,000 AGI category.

The department will review a generator's request for reapportionment submitted under subsection (5) of this section, and based on information provided by the person requesting reapportionment, will determine the extent and amount of AGI to be reapportioned among his identified sites. The department will not grant reapportionment until all information reasonably necessary to do so has been provided to the department. The information which a person requesting reapportionment must provide will be specified by the department in writing to the person after the department has received his request.

(iii) The department may, on its own, initiate the reapportionment of an assessed person's AGI according to the share of total AGI contributed by each of his identified sites. To determine his reapportionment, the department will specify in writing to the person the information necessary to perform such reapportionment. The department may, if it chooses, waive payment of a generator fee, or of penalties or both until reapportionment is complete.

- (3) Criteria for generator fee amount. This subsection describes the specific risk classes for generators, provisions for modifying risk classes in certain cases, and general parameters for fee amounts. The specific generator fee amounts are established in WAC 173-305-040 and are related to the risk classes and general fee parameters set forth in this subsection.
- (a) Generator fee parameters. Except as provided in WAC 173-305-080 and 173-305-090, the generator fee assessed for an identified site during a calendar year will not exceed:
- (i) \$150.00 for each identified site with an apportioned annual gross income not in excess of one million dollars;
- (ii) \$750.00 for each identified site with an apportioned annual gross income in excess of one million dollars but not exceeding ten million dollars; and
- (iii) \$7,500.00 for each identified site with an apportioned annual gross income in excess of ten million dollars.
- (b) Generator risk classes. Seven generator risk classes are established. The risk classes shall be identified as G1, G2, G3, G4, G5, G6, and G7, and are graduated with G1 representing the lowest risk and G7 representing the highest risk. The classes depend on the type(s) of hazardous waste (extremely hazardous waste (EHW) or dangerous waste (DW)) and quantities generated at an identified site. The generator risk classes are defined as follows:
 - (i) G1—less than 1.0 ton of DW in a calendar year;
- (ii) G2—less than 0.1 ton of EHW, or 1.0 ton or more but less than 2.0 tons of DW in a calendar year;
- (iii) G3—0.1 ton or more but less than 0.2 ton of EHW, or 2.0 tons or more but less than 3.5 tons of DW in a calendar year;
- (iv) G4—0.2 ton or more but less than 0.35 ton of EHW, or 3.5 tons or more but less than 5.5 tons of DW in a calendar year;
- (v) G5—0.35 ton or more but less than 0.55 ton of EHW, or 5.5 tons or more but less than 23.5 tons of DW in a calendar year;
- (vi) G6—0.55 ton or more but less than 2.35 tons of EHW, or 23.5 tons or more of DW in a calendar year; and
- (vii) G7—2.35 tons or more of EHW in a calendar year.
- (c) Assigning generator risk class. The department will assign the highest applicable generator risk class to an identified site. For example, if a person generates in a calendar year 150 pounds of EHW (risk class G2) and 20 tons of DW (risk class G5), his identified site will be assigned the generator risk class G5. The department may, on a case-by-case basis, determine that an identified site poses a greater risk than is reflected by the types and annual quantities of hazardous waste generated at the site. The department may make such a determination after considering the nature of the wastes generated, the proximity of the identified site to population centers, potential for release of the hazardous waste to the air, land, or surface or ground water, and the

safety of the generating and handling practices at the identified site. If the department makes such a determination, then it will assign a risk class that is one level higher than the risk class that would be assigned solely on the basis of waste types and quantities generated at the identified site. However, no risk class higher than G7 will ever be assigned. For example, an identified site might generate 1.2 tons of EHW, and thus have a generator risk class of G5. However, the department may assign the site a risk class of G6 (one class higher) because the site generates nerve gas wastes and is located over a sole source aquifer in the core of a major city. Upon reassigning a generator risk class to an identified site, the department will notify the person who utilizes or operates the site of his site's new risk class. Such notification will be in writing and will be included as part of the generator fee statement.

- (4) Assessment of generator fees. This subsection describes the procedures for assessing generator fees.
- (a) Generator fees will be assessed by the issuance of generator fee statements to persons whose businesses are selected for assessment pursuant to subsection (1) of this section. The department of ecology will provide a list of the businesses to be assessed to the department of revenue. The department of revenue will then prepare and send out the statements of generator fees, and will keep records on who has paid, how much was paid, who is late and, upon notice from the department of ecology, who has been exempted or whose fee has been reduced. If a second generator fee statement is necessary, due to exemption, reduction, reapportionment, etc., the department of ecology will provide the new information to the department of revenue, which will prepare and send out the second statement. A generator fee will be considered paid only after a valid check or money order for the full fee and any accrued interest has been delivered to the department of revenue.
- (b)(i) A generator fee will be owed for each calendar year that a person utilizes or operates one or more identified sites. Generator fee statements will be issued by May 31 each year for fees owed for the preceding calendar year. The due date for payment of generator fees is June 30. This due date will be changed for the following reasons:
- (A) As provided in subsection (5)(d) of this section, for each person who submits a request for waiver of fee; or
- (B) In the event that generator fee statements are not issued by May 31 of a given year, or for fee statements issued pursuant to (b)(ii) of this subsection, the due date will be thirty days after those generator fee statements are issued for that year.

Any person who still owes a generator fee after the applicable due date may be subject to collection and enforcement actions.

- (ii)(A) If a generator submits his annual report (pursuant to WAC 173-303-220) to the department and his report is late, then his generator fee statement may be issued after May 31.
- (B) The department may discover that a person is a generator, but that he has not been complying with the applicable requirements of chapter 173-303 WAC and

has not been assessed a generator fee under this chapter 173-305 WAC. If the department determines this to be the case, then such person may be assessed a generator fee that is the total of the fees owed for each year, after December 31, 1982, in which he generated hazardous waste but did not pay a fee.

- (c) For generator fees covering hazardous waste generation in calendar year 1983, the fees assessed shall be one-half of the full fees set forth in WAC 173-305-040. For every year thereafter, full generator fees will be assessed.
- (d) The statement of generator fee provided by the department of revenue will be a form including, but not limited to, the following information:
- (i) The name and address of the person responsible for paying the fee;
 - (ii) The amount of the generator fee assessed;
- (iii) The number and class or classes of identified sites for which a fee is owed and the fee owed for each identified site (if more than one);
- (iv) A copy of the fee schedule for generators (from WAC 173-305-040);
- (v) A statement of the due date for payment of the fee and the interest and penalties that could be levied for nonpayment; and
- (vi) The name, address, and telephone number of a department contact person for responding to questions about the fee.
- (5) Exemption from and reduction of fees. This subsection describes who may be exempted from a fee, whose fees may be reduced, and how exemptions or reductions will be granted or denied. To initiate a request for exemption or reduction, the person subject to a fee who wishes to make such a request must complete, sign, date, and submit to the department the form titled Request for Waiver of Fee (available from the department).
- (a) The department will grant an exemption from the generator fee to any person for any site for which he has been assessed a fee but which is not an identified site. Before granting an exemption the department may request any information reasonably necessary to determine whether the exemption should be granted including, but not limited to, information on a person's waste streams, types, and quantities. Upon request by the department, a person must provide such information within thirty days of the department's request. The department may extend this time limit if it believes there is a reasonable basis for doing so. Failure to submit information on time may result in denial of the person's request for exemption, or in penalties for late payment of his fee.
- (b) The department will reduce the generator fee for any person who can demonstrate to the department that:
- (i) The annual gross income apportioned to his identified sites is incorrect based on the share of each identified site's annual gross income; or
- (ii) The fee assessed for his hazardous wastes is too high based on the criteria described in subsection (3) of this section; or
- (iii) The person generates hazardous waste only once a year, or less frequently, as described in WAC 173-305-040(1)(b).

Before granting a reduction, the department may request any information reasonably necessary to determine whether or how much reduction is appropriate including, but not limited to: the share of each identified site's annual gross income; or, for adjustment based on the criteria, information on hazardous waste types, quantities, and generation rates. Upon request by the department, a person must provide such information within thirty days of the department's request. The department may extend this time limit if it believes there is a reasonable basis for doing so. Failure to submit information on time may result in denial of the person's request for reduction, or in penalties for late payment of his fee.

- (c) A Request for waiver of fee must be submitted to the department by June 30 of the year in which a fee was assessed for the preceding calendar year. Failure to submit a request on time may result in collection and enforcement proceedings for failure to pay or late payment of a fee.
- (d)(i) Upon receiving a completed, signed, and dated request for waiver of fee from a person, the department of ecology will temporarily waive the person's fee and will notify the department of revenue to delay collection or enforcement proceedings until the person's request has been processed. Except as provided in (e) of this subsection, no person who submits a timely request for waiver of fee shall be subject to any collection or enforcement actions while the department of ecology is making a final decision on that person's request. The department of ecology shall notify the person and the department of revenue regarding a final decision on exemption, reduction, and/or new due date (if any).
- (ii) Any person who is ultimately exempted from payment of the generator fee will not be subject to any collection or enforcement actions.
- (iii) If a person's generator fee is ultimately reduced but still owing, the final due date for payment of the fee will be either June 30 of the calendar year in which the fee was assessed, or thirty days after the department's final decision, whichever is later.
- (e) If the department determines that a person has knowingly submitted false information regarding a request for waiver of fee, then any temporary waiver or payment deadline extension granted to such person will be deemed ineffective. The department may take enforcement actions against such person if his fee is still owed after June 30, regardless of any temporary waiver or deadline extension that the department may initially have granted.

NEW SECTION

WAC 173-305-040 SCHEDULE OF GENERATOR FEES. This section sets forth the amount of the generator fee to be assessed. Subsection (1) of this section, describes the fees for specific businesses based on the criteria established in WAC 173-305-030(3) and annual gross income categories. Subsection (2) of this section, describes the fees for nonspecific businesses based on annual gross income categories.

- (1) Schedule of generator fees for specific businesses.
- (a) Matrix. The matrix at the end of this subsection sets the amount of the fees for generators in particular

risk classes and annual gross income ranges. Based on the annual gross income and the apportionment of income among identified sites, and on the information obtained in hazardous waste annual reports, persons will be assessed generator fees from the matrix. By finding the risk class in the left column and reading over to the apportioned annual gross income, the department will determine the fee for each identified site. A person owning or controlling more than one identified site will be assessed for the sum of the fees for all of his identified sites.

Specific Business Generator Fee Matrix
Apportioned Annual Gross Income¹

Risk Class ²	\$1,000,000.00 and less	\$ 1,000,000.01 to \$10,000,000.00	More than \$10,000,000.00
G1	\$15.00	\$100.00	\$1,000.00
G2	\$40.00	\$300.00	\$3,000.00
G3	\$65.00	\$500.00	\$5,000.00
G4	\$90.00	\$600.00	\$6,000.00
G5	\$115.00	\$675.00	\$6,750.00
G6	\$140.00	\$725.00	\$7,250.00
G7	\$150.00	\$750.00	\$7,500.00

- For procedures for apportioning annual gross income, see WAC 173-305-030(2).
- For procedures for determining risk class, see WAC 173-305-030(3).
- (b) Once a year generator fee reduction. Any person whose annual hazardous waste quantity does not exceed either 2.0 tons of dangerous waste (DW) or 0.5 tons of extremely hazardous waste (EHW), and who generates hazardous waste only once a year at an identified site will, for that identified site, owe only one-half of the full generator fee that would have been assessed solely on the basis of waste type and quantity. A person generates hazardous waste only once a year if either: All of the person's hazardous wastes are generated during one month or less of a calendar year; or, in the case of a person who is usually a small quantity generator (as described in chapter 173-303 WAC), the person's hazardous wastes exceed the small quantity generator exclusion only once during a calendar year. To the extent practical, the department will try to make the above determinations when calculating a person's generator fee prior to assessment. Any person assessed a generator fee which does not include the above reduction and who believes that such reduction is applicable, may complete and submit the Request for Waiver of Fee form as described in WAC 173-305-030(5).
- (2) Schedule of generator fees for nonspecific businesses.
- (a) SIC list. A list of SIC numbers appears at the end of this subsection. Any person whose business activity has an SIC number appearing on this list will be assessed a generator fee if the department has concluded, according to WAC 173-305-030(1)(b)(ii), that his nonspecific business utilizes or operates an identified site. The amount of the fee is established in (b) of this subsection. Procedures for apportioning annual gross income for nonspecific businesses are described in WAC 173-305-030(2)(b).

		SIC List		
1000	2865	3412	3662	4600
1081	2869	3423	3670	4610
1099	2870	3429	3674	4613
1721	2873	3433	3676	4811
2400	2874	3441	3679	4910
2411	2875	3451	3691	4911
2421	2879	3452	3694	4922
2430	2891	3462	3700	4953
2434	2893	3469	3710	4959
2435	2899	3470	3711	5013
2436	2900	3471	3713	5039
2490	2911	3479	3714	5063
2491	2951	3490	3715	5084
2500	2992	3496	3720	5085
2510	2999	3498	3721	5098
2511	3000	3499	3724	5100
2512	3024	3500	3728	5160
2531	3069	3530	3731	5161
2599	3079	3531	3732	5171
2600	3111	3533	3736	5172
2611	3170	3536	3749	5191
2621	3200	3540	3764	5210
2631 2640	3211 3293	3541 3542	3769 3811	5211 5231
2640 2641	3293 3295	3542 3544	3823	5251 5261
2643	3293 3296	3544 3549	3825	5541
2643 2651	3296	3549 3551	3829	5931
2653	3312	3552	3841	5983
2654	3312	3555	3842	7212
2711	3315	3559	3861	7212
2800	3325	3573	3911 ·	7349
2812	3331	3579 3579	3993	7379
2813	3334	3582	3999	7391
3816	3339	3589	4011	7399
2819	3341	3599	4200	7500
2821	3353	3600	4210	7530
2831	3355	3610	4214	7539
2834	3356	3612	4226	7542
2841	3361	3622	4266	7692
2842	3398	3624	4400	7694
2843	3399	3639	4411	7699
2850	3400	3646	4463	8071
2851	3411	3661	4469	8911
				9511
				9621
				9641

- (b) Schedule. The generator fees for nonspecific businesses are:
- (i) \$150.00 for each person with an apportioned annual gross income not in excess of one million dollars;
- (ii) \$750.00 for each person with an apportioned annual gross income in excess of one million dollars but not exceeding ten million dollars; and
- (iii) \$7,500.00 for each person with an apportioned annual gross income in excess of ten million dollars.

NEW SECTION

WAC 173-305-050 COORDINATION WITH THE DEPARTMENT OF REVENUE. The departments of ecology and revenue will frequently be transferring information and working together in the collection of generator fees. This section briefly describes some of the key areas in which the two agencies will coordinate. For the sake of clarity, they will be referred to in this section as Ecology and Revenue.

(1) The primary responsibilities of Ecology are to set fees, determine which persons will be assessed, and establish procedures for adjusting assessments.

- (2) The primary responsibility of Revenue is to collect generator fees (but not facility fees).
- (3) Figures on annual gross income for businesses will be obtained from Revenue. Ecology will abide by whatever rules Revenue may have regarding confidentiality of this information.
- (4) Ecology will notify Revenue promptly of any changes to generator fees for individuals or groups. Revenue will inform Ecology of current amounts collected and placed in the hazardous waste control and elimination account, and of any generator fees that are overdue.
- (5) Ecology will calculate any penalties or interest owed on overdue generator fees, will perform any adjustments to the generator fee owed by any individual, and will provide these figures to Revenue for use in their collection proceedings.

NEW SECTION

WAC 173-305-060 FACILITY FEES. This section describes the methods by which the department will: Select persons subject to a fee for operating a transfer. treatment, storage, or disposal (TSD) facility (subsection (1) of this section); determine the size of each facility fee based on the types of wastes, TSD activities, waste quantities, risks, etc. (subsection (2) of this section); and, assess the fees for each facility (subsection (3) of this section). The actual schedule of facility fees appears in WAC 173-305-070. Persons who operate a combined site (as defined in WAC 173-305-020) may be subject to two fees, however there is a maximum assessment not to be exceeded for each combined site operated by a person. The procedures for assuring this maximum is not exceeded are described in WAC 173-305-080. For the purposes of WAC 173-305-060 through 173-305-080, the term "operate" means own or control; the term "manage" means, in reference to hazardous waste, transfer, treat, store, or dispose (TSD); and recycling shall be considered a form of treatment.

- (1) Selection of facilities. A facility fee will be assessed to any person who operates a facility which is subject to a permit administered pursuant to chapter 173-303 WAC. Any person who operates more than one facility subject to a fee shall be responsible for paying all fees assessed to his facilities.
- (2) Criteria for facility fee amount. This subsection describes the specific risk classes for facilities and the general parameters for fee amounts. The specific facility fee amounts are established in WAC 173-305-070 and are related to the risk classes and general fee parameters set forth in this subsection.
- (a) Facility fee parameters. Except as provided in WAC 173-305-090, the facility fee assessed for the management of hazardous waste during a calendar year will not exceed \$7,500.00 for a facility.
- (b) Facility risk class. Seven facility risk classes are established. The risk classes shall be identified as F1, F2, F3, F4, F5, F6, and F7, and are graduated with F1 representing the lowest risk and F7 representing the highest risk. The classes depend on the type(s) of hazardous waste (extremely hazardous waste (EHW) or dangerous waste (DW)) and quantities managed at a facility, and

the type(s) of management at the facility. The facility risk classes are defined as follows:

- (i) F1—storage or transfer of less than 140.0 tons of DW, or less than 14.0 tons of EHW in a calendar year;
- (ii) F2—storage or transfer of 140.0 tons or more but less than 340.0 tons of DW, or 14.0 tons or more but less than 34.0 tons of EHW in a calendar year;
- (iii) F3—storage or transfer of 340.0 tons or more but less than 580.0 tons of DW, or 34.0 tons or more but less than 58.0 tons of EHW in a calendar year; or, treatment or incineration of less than 15.0 tons of DW, or less than 1.5 tons of EHW in a calendar year;
- (iv) F4—storage or transfer of 580.0 tons or more of DW, or 58.0 tons or more of EHW in a calendar year; or, treatment or incineration of 15.0 tons or more but less than 30.0 tons of DW, or 1.5 tons or more but less than 3.0 tons of EHW in a calendar year;
- (v) F5—treatment or incineration of 30.0 tons or more but less than 260.0 tons of DW, or 3.0 tons or more but less than 26.0 tons of EHW in a calendar year;
- (vi) F6—treatment or incineration of 260.0 tons or more of DW, or 26.0 tons or more of EHW in a calendar year; or, disposal of less than 10.0 tons of DW in a calendar year;
- (vii) F7—disposal of 10.0 tons or more of DW in a calendar year.
- (c) Assigning facility risk class. The department will assign the highest applicable risk class to a facility. For example, if a facility stores 50 tons of DW during a calendar year (risk class F1) and treats 2 tons of EHW during the same calendar year (risk class F4), then the facility will be assigned the facility risk class F4. In addition, the risk class assignable to a storage or treatment facility will be increased to the next highest risk class if fifty percent or more of the facility's hazardous wastes are managed in waste piles or surface impoundments. However, no risk class higher than F7 will ever be assigned. For example, if during a calendar year a facility stores 400 tons of DW in tanks (risk class F3) and treats this waste in a surface impoundment (risk class F6), then the higher risk class, F6, will be increased by one class. Thus, the facility risk class assigned by the department to the facility would be F7.
- (d) Special provision for permit by rule facilities. A facility which is operating under a permit by rule pursuant to WAC 173-303-802 will be assigned a facility risk class as described in (c) of this subsection. However, the fee assessed to a permit by rule facility will be only ten percent of the full fee specified in WAC 173-305-070 for the risk class assigned to the permit by rule facility. For example, if a permit by rule facility treats 20 tons of EHW in tanks during a calendar year, the assigned facility risk class would be F5. However, the fee assessed to this facility would be \$650.00 (10 percent of \$6,500.00, the full fee that would otherwise be assessed to a risk class F5 facility). This provision is only applicable to those facilities which manage hazardous wastes solely under a permit by rule.
- (3) Assessment of facility fees. This subsection describes the procedures for assessing facility fees.
- (a) Facility fees will be assessed, for each facility subject to a fee, to the person who operates the facility.

The department will depend on the information submitted in notifications, permit applications, and annual reports to determine the person responsible for a facility fee. A facility fee will be considered paid only after a valid check or money order for the full fee and any accrued interest and/or penalties has been delivered to the department of revenue.

- (b)(i) A facility fee will be owed for each calendar year during which hazardous waste is managed at the facility. The department will provide a statement of facility fee to each person operating a facility by August 1, 1984, for facilities managing hazardous waste in calendar year 1983, and by April 15 of each year thereafter. The dates facility fees are due are September 1, 1984, for facilities managing hazardous waste in calendar year 1983, and May 15 each year thereafter for facilities managing hazardous waste in the preceding calendar year. These due dates will be changed for facility fee statements that are not issued by the applicable deadlines, or for facility fee statements issued pursuant to (b)(ii) of this subsection. The final due date in these cases will be thirty days after the department issues the facility fee statements. Any person who still owes a facility fee after the applicable due date may be subject to collection and enforcement actions.
- (ii)(A) If a person submits a facility annual report (pursuant to WAC 173-303-390) to the department and his report is late, then the department may issue his facility fee statement after the applicable deadline.
- (B) The department may discover that a person operates a facility, but that he has not been complying with the applicable requirements of chapter 173-303 WAC and has not been assessed a facility fee under chapter 173-305 WAC. If the department determines this to be the case, then such person may be assessed a facility fee that is the total of the fees owed for each year, after December 31, 1982, in which his facility managed hazardous waste but for which he did not pay a fee.
- (c) The statement of facility fee provided by the department will be a form including, but not limited to, the following information:
 - (i) The name and address of the assessed facility;
 - (ii) The amount of the facility fee assessed;
- (iii) The facility class based on the criteria described in subsection (2) of this section;
- (iv) A copy of the fee schedule for all facilities as shown in WAC 173-305-070;
- (v) For facilities also subject to a generator fee, the calculations made, pursuant to WAC 173-305-080, to assure that the maximum combined fee is not exceeded;
- (vi) A statement of the due date for payment of the fee and the interest and penalties that could be levied for nonpayment; and
- (vii) The name, address, and telephone number of a department contact person for responding to questions about the fee.

NEW SECTION

WAC 173-305-070 SCHEDULE OF FACILITY FEES. The facility risk classes used here refer to the criteria established in WAC 173-305-060(2). The fees are:

- (1) \$750.00 for risk class F1 facilities;
- (2) \$1,500.00 for risk class F2 facilities;
- (3) \$4,000.00 for risk class F3 facilities;
- (4) \$5,000.00 for risk class F4 facilities;
- (5) \$6,500.00 for risk class F5 facilities;
- (6) \$7,250.00 for risk class F6 facilities; and
- (7) \$7,500.00 for risk class F7 facilities.

NEW SECTION

WAC 173-305-080 ASSESSMENTS FOR COMBINED SITES. (1) Maximum fee. Any person who operates a hazardous waste transfer treatment, storage or disposal (TSD) facility which is also an identified site will be subject to both the facility fee and the generator fee. At no time, however, will the sum of both fees exceed \$7,500.00 for a combined site in one year. Any person who operates more than one combined site will be responsible for the sum of the fees assessed to each combined site. The maximum fee (\$7,500.00) applies only to each combined site, and does not apply to the sum of the fees assessed to multiple combined sites operated by one person.

- (2) Assessment. At the time that the department is calculating the fee for a combined site, it will determine the amount of the generator fee and the amount of the facility fee to be assessed. If the sum of the two fees exceeds \$7,500.00 for the combined site, then the department will recalculate the fees and provide the calculations with either the generator or facility fee statement. When required to recalculate the fees, the department will subtract either the generator or facility fee from \$7,500.00, and the difference will be the facility or generator fee. For example, if the department determines that the generator fee for a particular combined site is \$5,000.00, and that the facility fee is \$5,000.00, then the department will recalculate the generator or facility fee because the sum of the two fees (\$10,000.00) exceeds \$7,500.00. The recalculation would be \$7,500.00 - \$5,000.00 = \$2,500.00, thus the generator or facility fee assessed in the statement for the combined site would be \$2,500.00.
- (3) Adjustments; supplemental fees. If at any time there is a reduction in the generator fee for a combined site (due to the department's granting of an exemption, reduction, or reapportionment under WAC 173-305-030(5) or (2)(b)(ii) or (iii)) and the facility fee for the combined site has been recalculated in accordance with subsection (2) of this section prior to the generator fee reduction, then the department will adjust the facility fee to reflect the reduced generator fee and, if necessary, issue a supplemental facility fee statement. If a supplemental facility fee statement is issued, the due date for the supplemental fee will be thirty days after the supplemental statement is issued, whichever is later. An example of when a supplemental facility fee would be issued is as follows. The department determines that a particular combined site owes a generator fee of \$6,000.00 and a facility fee of \$6,500.00. However, because of the limit for combined sites, the department issues a facility fee statement which assesses \$1,500.00 (\$7,500.00 - \$6,000.00 = \$1,500.00). The person who operates the combined site pays the \$1,500.00 facility

fee, but he requests reapportionment of his annual gross income to reduce his generator fee. The department ultimately grants his request and his new generator fee is \$600.00, which he then pays. The person who operates the combined site is now liable for payment of the full \$6,500.00 facility fee, because his combined fees do not exceed \$7,500.00 (\$600.00 + \$6,500.00 = \$7,100.00). Therefore, the department issues a supplemental facility fee statement for \$5,000.00 (\$6,500.00 - \$1,500.00 (already paid) = \$5,000.00 (unpaid balance)) which the person who operates the combined site then pays.

NEW SECTION

WAC 173-305-090 ADJUSTMENT OF FEES AND LIMITS. The department will adjust, by rule amendment, the fee schedules of WAC 173-305-040 and 173-305-070, and the maximum fee limits of WAC 173-305-030(3), 173-305-060(2), and 173-305-080(1) by increasing or decreasing the amounts set forth therein by five percent on each occasion when the consumer price index of the United States department of labor increases or decreases by a five percent increment from the index figure as it existed on January 1, 1983.

WSR 84-05-013 PROPOSED RULES INSURANCE COMMISSIONER FIRE MARSHAL

[Filed February 8, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Insurance Commissioner/State Fire Marshal intends to adopt, amend, or repeal rules concerning posting premises protected by guard animals, chapter 212-75 WAC;

that the agency will at 10:00 a.m., Tuesday, March 27, 1984, in the Office of Insurance Commissioner, Conference Room, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 48.02.060(3)(a) and 48.48.150(1).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 27, 1984.

Dated: February 8, 1984
By: Thomas R. Brace
Director, Division of State Fire Marshal

STATEMENT OF PURPOSE

Pursuant to RCW 48.02.060(3)(a) and 48.48.150(1), the front entrances to residences and all entrances to business property protected by guard animals shall be posted with signs approved by the state fire marshal.

The purpose of these rules is to identify the sign to be used for posting residences and business premises protected by guard animals, including the sign dimensions, size of lettering, and content of the warning statement.

Chapter 212–75 WAC POSTING PREMISES PROTECTED BY GUARD ANIMALS

NEW SECTION

WAC 212-75-001 PURPOSE. The purpose of this chapter is to describe the minimum specifications for approved signs warning of the presence of guard animals, as required by RCW 48.48.150.

NEW SECTION

WAC 212-75-005 MINIMUM SPECIFICATIONS FOR AP-PROVED SIGNS. To be approved by the state fire marshal, a sign warning of the presence of guard animals as required by RCW 48.48-.150 shall satisfy the following two conditions:

(1) The sign must be at least 3" by 5" (three inches in height by five

inches in length), though it may be larger; and

(2) The sign must bear the following caption in bold print at least 1/2" (one-half inch) high: "CAUTION! PREMISES PROTECTED BY GUARD ANIMALS."

WSR 84-05-014 PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed February 8, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning general pesticide regulations, amending chapter 16-228 WAC;

that such agency will at 1:30 p.m., Wednesday, March 28, 1984, in the Holiday Inn, 9 North 9th Street, Yakima, WA 98901, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 4:00 p.m., Tuesday, April 10, 1984, in the Director's Office, Department of Agriculture.

The authority under which these rules are proposed is chapters 17.21 and 15.58 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 28, 1984, and/or orally at 1:30 p.m., Wednesday, March 28, 1984, Holiday Inn, 9 North 9th Street, Yakima, WA 98901.

Dated: February 8, 1984
By: Glenn E. Smerdon
for Art Losey
Assistant Director

STATEMENT OF PURPOSE

Title: Amending WAC 16-228-010, 16-228-115, 16-228-125, 16-228-130, 16-228-155, 16-228-160, 16-228-162, 16-228-165, 16-228-170, 16-228-172, 16-228-174, 16-228-176, 16-228-178, 16-228-180, 16-228-185, 16-228-190, 16-228-210, 16-228-220, 16-228-225, 16-228-230 and adding WAC 16-228-161.

Description of Purpose: Amend general pesticide regulations.

Statutory Authority: Chapters 17.21 and 15.58 RCW. Summary of Rules: Implement experimental use permit and emergency exemption regulations; update labeling requirements in compliance with federal and state laws; amend restricted use pesticide list; repeal sections incorporated in law; amend insurance requirements to

conform with law; and add new section concerning distribution records.

Reasons Supporting Proposed Action: To bring regulations into compliance with current state and federal laws, clarify and update general regulations.

Agency Personnel Responsible for Drafting: Art G. Losey, Assistant Director, Chemical and Plant Division, 406 General Administration Building, Olympia, Washington 98504, (206) 753-5064.

Persons Proposing Rule: Agency.

Agency Comments or Recommendations: None.

Rule amendments necessary to comply with federal laws.

Small Business Economic Impact Statement: No impact, none required.

 $\frac{AMENDATORY\ SECTION}{5/14/76\ [7/29/77])}\ (Amending\ Order\ 1470\ [1538],\ filed$

WAC 16-228-010 DEFINITIONS. (1) "Agricultural commodity" means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by ((man)) humans or animals.

consumption, propagation, or other use by ((man)) humans or animals.

(2) "Authorized agent" is any person who is authorized to act on behalf of a certified applicator for the purpose of purchasing pesticides

((listed in WAC 16-228-165(1))).

(3) "Bait box" for rodenticides is a box constructed of durable metal, wood, plastic, or other treated synthetic material. It shall be designed to hold rodent bait securely, allow rodents to enter and leave, and prevent unauthorized persons and domestic animals from gaining access to the bait. The cover shall be provided with a lock that can be unlocked only by a combination, key, special tool, or forced entry. Fragile materials are unacceptable.

(4) "Bait station" may be any location where baits are placed to al-

low ((rodents)) target pests to gain access to the bait.

(5) "Bulk fertilizer" is a commercial fertilizer, agricultural mineral, or lime, distributed in nonpackaged form.

(6) "Certified applicator" means any individual who is certified by the director to use or supervise the use of any pesticide which is classified by the ((EPA)) environmental protection agency (EPA) as a restricted use pesticide or by the state as restricted to use by certified applicators including, but not limited to licensed commercial applicators, licensed commercial operators, licensed private—commercial applicators, ((certified)) licensed demonstration and research applicators, and certified private applicators.

(7) "Controlled disposal site" means any place where solid or liquid waste is disposed: PROVIDED, That the area has been designated as a disposal site for waste materials by the jurisdictional health officer: PROVIDED FURTHER, That the site is fenced, barricaded or otherwise enclosed or attended by some person in charge to facilitate control-access of domestic animals, pets, and unauthorized persons.

(((8) *Demonstration and research applicator* means (1) individuals who demonstrate to the public the proper use and techniques of application of EPA or state restricted use pesticides or supervise such demonstration, and (2) persons conducting field research with pesticides, and in doing so, use or supervise the use of EPA or state restricted use pesticides.

(9) "Direct supervision" by (a) certified private applicators and private-commercial applicators shall mean that the designated restricted use pesticide shall be applied by a competent person acting under the instructions and control of a certified applicator certified in the category for which the pesticide is being applied who is available if and when needed, even though such certified applicator is not physically present at the time and place of the pesticide is being applied. The certified applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied, and (b) direct supervision by all other certified applicators means direct on—the—job—supervision:))

(((10))) (8) "Dry pesticide" is any granular, pelleted, dust or wet-

table powder pesticide.

(((11))) (9) "EPA" means the United States Environmental Protection Agency.

(((12))) (10) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(((13))) (11) "Fertilizer" as included in this order means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.

(((14))) (12) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended.

(((15))) (13) "Floor level" is considered to be the floor upon which people normally walk-not shelves, ledges, overhead beams, tops of stacked materials, surfaces of equipment, or similar places.

(((16))) (14) "Food service establishment" means any fixed or mobile restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial-feeding establishment; retail grocery; retail food market; retail meat market; retail bakery; private, public, or nonprofit organization routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(((17))) (15) "Fumigant" means any substance or combination of substances that produce gas, fumes, vapors, or smoke, and is used to

kill pests in some kind of enclosure.

(((18))) (16) "Highly toxic" for the purpose of this order, are those pesticides determined to be in the Toxicity Category I and are labeled on the front panel with the signal word "Danger". In addition if the product was assigned to Toxicity Category I on the basis of its oral, inhalation or dermal toxicity (as distinct from skin and eye local effects) the word "poison" shall appear in red on a background of distinctly contrasting color and the skull and crossbones shall appear in immediate proximity to the word "poison".

(((19))) (17) "Private applicator" means a certified applicator who

uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators by the director for the purposes of producing any agricultural commodity on land owned or rented by ((him)) the private applicator or ((his)) the private applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

(((20))) (18) "Private-commercial applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators for purposes other than the production of any agricultural commodity on lands owned or rented by ((him)) the applicator or ((his)) the applicator's employer.

(((21))) (19) "State restricted use pesticide" means any pesticide determined to be a restricted use pesticide by the director under the authority of chapters 17.21 and 15.58 RCW that are restricted to use

only by certified applicators.

(((22))) (20) "Unreasonable adverse effects on the environment" means any unreasonable risk to ((man)) humans or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-115 PESTICIDE LABELING REQUIRE-MENTS. (1) Pesticide labeling must meet the standards or criteria of the Federal Insecticide, Fungicide and Rodenticide Act.

(2) Conditions set forth as part of an exemption from registration under provisions of Section 18 of FIFRA shall be considered labeling for purposes of enforcement.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-125 ((EXEMPTIONS FOR EXPERIMENTAL USE. (1) These regulations shall not apply to the manufacturer or shipper of a pesticide for experimental use only, and which is to be used under supervision of a state agency, or of the federal government, or by others authorized to do experimental work if the label on the container is plainly and conspicuously marked for experimental use ONLY - NOT TO BE SOLD, has the manufacturer's name and address provided, has the manufacturer's identification and/or code number of contents, and contains such precautions as are known to be necessary to protect the health of persons who may come in contact with the

(2) Pesticides for experimental use may be sold if a written permit has been obtained from the director and the pesticides are sold for experimental purposes subject to restrictions and conditions described in the permit. If the pesticide is to be used on a food or feed crop, a tolerance must be obtained from the environmental protection agency before a permit can be issued.)) EXPERIMENTAL USE PERMITS. (1) Pesticides shall not be distributed or used for experimental purposes unless a written permit has been obtained from the director. distribution and use of pesticides for experimental purposes shall be subject to restrictions and conditions described in the experimental use permit. Applications for experimental use permits shall include the following (when applicable):

(a) Name of the active ingredient and/or product name and/or

EPA registration number of the product to be used;

(b) Person responsible for carrying out provisions of the experimental permit and means of locating this person in case of emergency;

(c) Target pest(s);

(d) Crop or site and location(s) to which the pesticide is to be applied;

(e) Disposition of any treated food or feed and of subsequent crops from treated sites:

(f) Rate of application of formulation or active ingredient and number of applications;

(g) Timing and duration of the proposed program;

(h) Area to which the pesticide is to be applied;

(i) Total amount of pesticide to be applied;

(j) Federal experimental use permit number and text;

(k) Labeling to accompany the pesticide in the field;

(1) Any other information required by the director.

(2) An experimental use permit shall not be issued for use of a pesticide on a food or feed unless a tolerance greater than residues anticipated from the treatment or exemption from the requirement of a tolerance has been obtained from the environmental protection agency, provisions for destruction of the treated food or feed and any crop residue have been made, or adequate demonstration has been made to the department that no detectable pesticide residue from the experimental program will be present in food or feed. The director may require evidence to substantiate any of the above.

(3) Collective experimental use permits may be issued by the director for experimental programs conducted by recognized research insti-

tutions on land owned or controlled by the institution.

(4) The director may monitor the implementation of any experi-mental use permit. This may include collection of samples, inspection of premises, records and equipment, and any other related activities specified by the director. The conditions of any experimental use permit may require notification of a designated department office prior to application and/or presence of a departmental representative at the application. Experimental use permits shall be considered labeling for purposes of enforcement. Violations of these permits shall be considered use inconsistent with the label

(5) Summaries of experimental results and environmental effects shall be retained by the holder of the permit for three years and shall be submitted to the department upon request of the director.

(6) Pesticides intended for experimental use must be contained in secure containers, the labeling of which must present such precautions as are known to be necessary to protect the health of persons who may come in contact with the pesticide and to prevent unreasonable adverse effects on the environment.

(7) The director may limit the amount of pesticide, acres or areas to be treated, licensing, or qualifications of persons exercising the permit, or any other condition of an experimental use permit. The director may deny, amend, suspend or revoke any experimental use permit if it is found to be in violation of applicable federal regulations, in violation of RCW 15.58, RCW 17.21 or regulations adopted thereunder, or if the director deems such action necessary to protect public health and the environment.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-130 PESTICIDE-FERTILIZER REGISTRA-TION AND LABELING. (1) Each pesticide-fertilizer mix containing different pesticide active ingredients and/or percentages must be registered with the director: PROVIDED, That the fertilizer portion shall be considered an inert ingredient for the purpose of this order: and PROVIDED FURTHER, That such registrations may be to the nearest 0.1% by weight of all active ingredient/s, except for nitrification inhibitor-pesticide mixes as stated in (4) below.

(((2) A registered pesticide label must be attached to each pesti-

cide-fertilizer mix container.

- (3) A pesticide-fertilizer label may also contain the fertilizer labeling information as required in the Washington Commercial Fertilizer
- (4))) (2) A specimen pesticide-fertilizer label shall be registered with the director before distribution or sale. These labels shall bear the following items:
- (a) A pesticide ingredient statement identifying the active ingredient(s) and showing the percent by weight of each active ingredient;
- (b) EPA registration number of each pesticide used to formulate the pesticide-fertilizer mix;
- (c) Crop(s) on which the pesticide-fertilizer mix may be used and the amount of pesticide-fertilizer mix to be applied per acre;
- (d) Timing of application (for instance, pre-plant) and the preharvest interval;
 - (e) Net weight of the shipment;
 - (f) Fertilizer grade;
 - (g) Fertilizer brand;
- (h) Name and number of pounds (or gallons for liquids) of each registered fertilizer used in the mixture and the name and number of pounds of each other fertilizer ingredient added;
 - (i) Name and address of the registrant or manufacturer;

(j) Any other information required by the director.

- (3) Labeling bearing all of the information specified in (2) above and a complete specimen label for each pesticide product used to formulate the pesticide-fertilizer mix shall accompany each pesticide-fertilizer mix shipment. All or portions of the information required in (2) above may occur on the invoice of a custom mix: PROVIDED, That an appropriate specimen invoice has been registered by the director as pesticide labeling.
- (4) Pesticide-fertilizer mixes containing nitrification inhibitors or agents intended for nitrogen stabilization only, and no other pesticide active ingredients, may be registered without specifying the percentage of active ingredient. The amount of active ingredient in the mix must be stated on the label that accompanies each shipment.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-155 ((RESTRICTED USE)) PESTICIDES—NOT FOR ((USE BY)) DISTRIBUTION TO HOME AND GARDEN USERS. (1) The following pesticides are hereby declared to be restricted use pesticides in the state of Washington because of their toxicity to ((man)) humans and animals and shall not be ((sold)) distributed to home and garden users. The following pesticides will be registered only when manufactured, labeled, delivered, distributed, sold, or held for sale for use by commercial producers and/or commercial applicators or governmental agencies experienced in the application of pesticides:

((1. Aluminum Phosphide (Phostoxin)

- 2. Arsenic Trioxide (1.6% and above except for the control or eradication of crabgrass and the container thereof is restrictively labeled for such:
 - 3. Azodrin
 - 4. Bidrin
 - 5. Castrix

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6. Dasanit
7. Delnav (25.1% and above)
8. DiNitro-O-Cresol (DNOC)
9:)) (a) DiNitro-O-Sec Butyl Phenol (DNOSBP)
((10. DiSyston (2.1% and above)
11. Dyfonate (11% and above)
12:)) (b) Endothall (20% and above)
((13. Endrin (2.5% and above)
14. EPN
15:)) (c) Ethion (26% and above)
((16. Furadan (Carbofuran)
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17:)) (d) Guthion (16% and above) ((18:)) (e) Hydrogen Cyanide (Hydrocyanic acid) (HCN)

((19. Methomyl (Lannate or Nudrin)(2% and above) 20.)) (f) Methyl Bromide

((21. Methyl Demeton (Meta Systox) (25% and above)

22. Methyl Parathion

23. Monitor (40% and above)

24. OMPA (Schradan)

- 25. Paraquat (cation equivalent .5% and above)
- 26. Parathion
- 27. Phosdrin
- 28. Phosphamidon
- 29. Phosphorus paste (further restricted in WAC 16-228-145)
- 30. PMA Phenyl Mercuric Acetate (1.5% and above)
- 31. Sodium Arsenite
- 32. Sodium Sclanate
- 33:)) (g) Strychnine and its salts (Strychnine Alkaloid 1.1% and above)
 - ((34. Systox (Demeton)
 - 35. Temik
 - 36. 1080 and 1081 (further restricted in WAC 16-228-145)
 - 37. TEPP
 - 38. Thallium compounds (banned for all rodenticide uses)
 - 39. Thimet
- 40. Trithion (liquid and wettable powder 26% and above; granular and dust 11% and above)
 - 41. Zinc Phosphide (2.1% and above)
 - 42. Zinophos))
- (2) Pesticide dealers shall keep records on the sale of any of the above listed pesticides. These records shall contain the date of sale, the name and amount of the pesticide sold and the name and address of the purchaser. These records shall be kept on file for a period of one year and the director shall have access to these records upon request.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-160 RESTRICTION ON DISTRIBUTION, TRANSPORTATION, STORAGE AND DISPOSAL. (1) No person shall handle, transport, store, display, apply, or distribute pesticides in such a manner as to endanger ((man)) humans and ((his)) their environment or to endanger food, feed, or any other product that may be transported, stored, displayed, or distributed with such pesticides. Toxicities of pesticides shall be considered in distribution, storage, handling, and merchandising practices.

- (2) Highly toxic pesticides shall not be transported in the same compartment of the vehicle or other equipment together with clothes, food, feed, or any other material intended for consumption by humans or animals. Any vehicle or other equipment shall be inspected by the owner or ((his)) authorized agent for contamination before reuse. In instances where leakage or spillage has occurred, the shipper of the pesticides shall be immediately notified for instructions concerning the best method to be employed for the removal of the contamination. Vehicles or other equipment which have been contaminated must not be returned to service until the contamination has been removed.
- (3) Pesticide containers shall be secured during transit by use of side or end racks, bracing, chocks, tiedowns, or other means to prevent their sliding, falling, tipping, rolling, or falling off the vehicle with normal vehicle acceleration, deceleration, or change in direction.
- (4) Valves shall be tightly closed and manhole covers shall be secured on cargo or portable tanks used for transporting pesticides, whether tanks are full or empty.
- (5) Portable tanks shall be secured to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Ends, sidewalls, or doors of van bodies shall not be relied upon for securement.
- (6) Pesticides shall not be delivered to a pesticide consignee unless the consignee or ((his)) authorized agent is present to accept delivery

of the pesticides and signs a delivery slip and/or the pesticides are secured in a proper storage.

(7) Pesticides shall not be stored and/or displayed over or adjacent to meat or vegetable cases, other human foods, animal feeds, or drugs, or in any manner that may result in contamination of food, feed, or clothing. ((Pesticide products shall not be packaged, sacked, or boxed with any of the above.)) Pesticides intended for sale or distribution shall only be stored and displayed within an enclosed area of a building or fence and shall not be displayed on sidewalks.

(8) Pesticide dealers shall not sell, offer for sale, or hold for sale highly toxic pesticides in the same department where food for human consumption is displayed or sold. The use of the same "checkstand" or food packaging area is prohibited for the distribution of highly toxic

- ((a)) (9) ((Pesticide dealers shall post in a conspicuous place a list of persons to contact in case of a pesticide accident. This list shall include the name and address of the nearest poison control center, the Washington state department of social and health services, the Community Pesticide Study Project Laboratory in Wenatchee, the county extension agent; the department of agriculture offices in Yakima and Olympia, and the local health officer.)) All pesticide accidents must be reported to the Washington state department of social and health
- (10) Pesticides in leaking, broken, corroded, or otherwise damaged containers shall not be displayed, offered for sale, or transported and shall be handled or disposed of in a manner that would not contaminate the environment or cause injury to ((man)) humans and/or animals. Pesticides with obscured or damaged labels shall not be displayed or offered for sale.

(11) No person shall distribute or sell any pesticide unless it is in the registrant's or the manufacturer's unbroken, immediate container and there is affixed to ((such)) the container its registered pesticide label.

(12) The distribution and use of DDT and DDD shall be prohibited in this state except for ((the)) uses ((determined to be "essential uses" as determined by the pesticide control board as provided for in the Washington Pesticide Control Act, chapter 15.58 RCW, RCW 15.58-.390)) allowed by the environmental protection agency or the center for disease control of the United States department of health & human services.

NEW SECTION

WAC 16-228-161 DISTRIBUTION RECORDS. Pesticide dealers shall furnish records on the distribution of any pesticide except those labeled only for home and garden use to the director upon request. These requests shall be limited to records necessary for investigations of suspected violations, damage complaints, monitoring distribution and use under provisions of special local needs registrations, emergency exemptions from federal registration and experimental use permits, and monitoring of any pesticide suspected of unreasonable adverse effects on the environment.

AMENDATORY SECTION (Amending Order 1679, filed 2/20/80)

WAC 16-228-162 HIGH VOLATILE ESTER AND DUST FORMULATIONS PROHIBITED. The distribution, use and application of all high volatile ester and dust formulations of ((restricted use)) phenoxy herbicides shall be prohibited throughout the state: PROVIDED, That this section shall not apply to dust or granular formulations packaged in shaker cans intended for home and garden use.

AMENDATORY SECTION (Amending Order 1679, filed 2/20/80)

WAC 16-228-165 STATE RESTRICTED USE PESTICIDES FOR USE BY CERTIFIED APPLICATORS ONLY((-RE-OUIREMENTS FOR USER PERMITS)). (1) The following pesticides are hereby declared to be state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives. These pesticides shall be used or applied only by certified applicators or persons under the direct su-pervision of a certified applicator (refer to definition of "direct supervision"). Any EPA restricted use pesticide not listed shall be distributed and used only under these restrictions:

- (a) Monocrotophos (Azodrin)
- (b) Dicrotophos (Bidrin)
- (c) DDD & DDT (((for essential uses determined by law)))
- (d) Disulfoton (DiSyston) liquid

- (e) Endrin ((- 2.5% and above))
- (f) Parathion and methyl parathion ((= 1.1% and above))
- (g) Mevinphos (Phosdrin) (((h) Schradan (OMPA)))
- (((i))) (h) Sodium arsenite
- (((t))) (<u>i)</u> Demeton (Systox) (((demeton))) (((k))) (<u>j)</u> Aldicarb (Temik) (((t))) (<u>k</u>) TEPP

- (((m))) (l) Phorate (Thimet) (((phorate))) liquid

(((n) Tordon 22K - For use on rangeland and permanent grass pastures east of the crest of the Cascade Mountains.))

(((o))) (m) 2,4-D - all liquid formulations distributed in packages of ((†)) one gallon and larger to be used in counties located east of the crest of the Cascade Mountains and all dry formulations except those labeled and intended for home and garden use only. Pesticide dealers shall be required to make available to the purchaser a copy of the regulations covering the use of 2,4-D in the area in which the material will be applied.

- ((((q))) (<u>n)</u> Zinophos (((q))) (<u>o</u>) All pesticide formulations labeled for application onto or into water to control pests in or on water, except those labeled only for
 - (i) Swimming pools;
 - (ii) Wholly impounded ornamental pools and fountains;
 - (iii) Aquariums;
 - (iv) Closed plumbing and sewage systems;
 - (v) Enclosed food processing systems;
 - (vi) Air conditioners and humidifiers;
 - (vii) Cooling towers; and
- (viii) ((and)) aquatic environments in states other than Washington: PROVIDED, That for purposes of this subsection, sales of pesticides bearing combined labeling for uses into or onto water and for other uses may be made by licensed pesticide dealers to non-certified applicators, if the dealer indicates on the sales slip or invoice that the purchaser of the pesticide agrees that it is not to be applied into or onto water. If requested by the department, dealers must furnish records on the sales of pesticides labeled for application into or onto water, whether sold for that use or not. Records must include the name and address of the purchaser, the complete product name and/or EPA reg-

istration number of the pesticide and the amount purchased.

(((2) User permits will be furnished by the Washington state department of agriculture pesticide branch and may be issued by a licensed pesticide dealer.

(3) A certified private applicator or private-commercial applicator may list on his permit the name or names of authorized agent(s) for the purpose of purchasing or receiving above listed pesticides.

(4) Permits shall be on a form furnished by the director and shall include the following:

- (a) Permit number
- (b) Date of issuance
- (c) Name and address of the certified applicator
- (d) Crops and acreage to which the pesticides will be applied
- (c) Name of authorized agent(s)
- (f) Any other information prescribed by the director.

(5) A copy of the permit shall be issued to the certified applicator and a duplicate shall be retained by the pesticide dealer. Permits shall expire on December 31 of each year.

(6))) (2) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving ((the)) restricted use ((pesticide)) pesticides listed in WAC 16-228-165(1) by making previous arrangements with the pesticide dealer, or the authorized agent may ((provides)) provide written authorization to the dealer at the time of purchase. At the time of purchase by an authorized agent the pesticide dealer shall require the certified applicator's name and license or certification number.

(((7))) (3) Licensed dealers shall keep records on each sale of these restricted use pesticides which shall include the following:

- (a) Name and address of the certified applicator
- (b) Applicator or operator certificate or license number
- (c) Name of authorized agent (if applicable)
- (d) Date of purchase
- (e) Brand and specific pesticide name and EPA registration number
- ((f) Percent active ingredient or pounds active ingredient per gallon
- (g) For DDT & DDD rate of formulation to be applied per acre (h))) (f) Amount sold
- (((i))) (g) Crop or site to which pesticide will be applied

(((8))) (4) Pesticide dealers shall keep permits and dealer records for a period of one year from the date of issuance and the director shall have access to these records upon request.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-168 CHANGE OF EXEMPTIONS. The licensing exemption for landscape gardeners provided in ((chapter 17.21 RCW₂)) RCW 17.21.205; jurisdictional health officers as provided for in ((chapter 17.21 RCW₂)) RCW 17.21.202; and research personnel provided for in ((chapter 17.21 RCW₂)) RCW 17.21.203 shall not apply when applying EPA restricted use pesticides or state restricted use pesticides which are restricted to use by certified applicators only((:)): PROVIDED, That research personnel shall be required to obtain a demonstration and research applicator certification.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-170 PESTICIDE ((DEALER'S)) DEALER AND DEALER MANAGER LICENSES. (1) When more than one pesticide dealer is engaged in the business from the same outlet or location, each pesticide dealer shall obtain a license for said outlet or location.

(2) A licensed pesticide dealer manager must be available to the staff, customers, and department representatives at all times that an outlet or location distributes pesticides. A dealer manager may be the designated dealer manager of more than one outlet or location only if the dealer manager can be physically present at both outlets or locations during all times of pesticide distribution and handling.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-172 PERMITS. (1) ((A private)) Private applicator certification, demonstration and research applicator certification, user permits and private-commercial applicator license licenses shall be considered as certified applicator permits as provided for in ((17.21, Section)) RCW 17.21.030 and RCW 15.58.040 (2)(h).

(2) User permits may be issued by the director as temporary applicator certification in emergency situations. User permits will be issued in a form prescribed by the director, which shall include the following:

- (a) Permit number
- (b) Date of Issuance
- (c) Expiration date, which shall be not longer than one year from the date of issuance
 - (d) Name and address of certified applicator
 - (e) Crop or site and area to which the pesticide will be applied
 - (f) Amount of pesticide obtained
 - (g) Any other information prescribed by the director.
- (3) Pesticide dealers shall keep user permits for a period of one year from the date of issuance, and the director shall have access to these records upon request.

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AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-180 LICENSE DENIED, REVOKED OR SUS-PENDED. (((1))) The director may deny, suspend, or revoke any provision of a license, registration, permit or certification issued under chapters 17.21 and 15.58 RCW if he finds that the applicant or the holder of the license, permit, or certification has committed any of the following acts each of which is declared to be a violation:

(((a))) (1) Made false or fraudulent claims through any public media such as newspaper, newsletter, TV or radio, misrepresenting the effect of pesticide or application methods to be utilized;

(((b))) (2) Made a pesticide recommendation or gave advice or used a pesticide inconsistent with the labeling, the EPA or Washington state registration for that pesticide, an EPA or Washington state experimental use permit for that pesticide, an exemption from registration under provisions of Section 18 of FIFRA, or in violation of the EPA or Washington state restrictions on the use of that pesticide((: PROVIDED), That a person will not be in violation when following current EPA pesticide enforcement policies:));

(((c))) (3) Applied known ineffective or improper pesticides or materials:

(((d))) (4) Operated a faulty or unsafe apparatus;

(((c))) (5) Operated in a faulty, careless or negligent manner;

(((f))) (<u>6</u>) Refused or neglected to comply with the provisions of the applicable sections of chapters 15.58 and 17.21 RCW, the rules adopted thereunder, or of any lawful order of the director;

(((g))) (7) Refused or neglected to keep and maintain records required by chapters 15.58 RCW, 17.21 RCW, and regulations adopted thereunder, or to make reports when and as required;

(((h))) (8) Made false or fraudulent records, invoices, or reports;

(((i))) (<u>9</u>) Caused the application of a pesticide without having a licensed or certified applicator or operator in direct supervision;

(((j))) (10) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus as provided for in 17.21 RCW;

(((k))) (11) Used, ((recommended,)) or supervised the use of a pesticide which is restricted to use by certified applicators without having qualified as a certified applicator;

(((++))) (12) Used fraud or misrepresentation in making an application for a license, permit or certification or renewal of a license, permit or certification:

(((m))) (13) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit or certification;

(((n))) (14) Aided or abetted a certified applicator, or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW, conspired with such a certified applicator or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW or allowed one's license, permit, or certification to be used by another person;

(((o))) (15) Made false, misleading statements or reports during or after an inspection concerning any infestation or infection of pests found on land;

(((p))) (16) Made false or fraudulent reports and/or recommendations;

(((q))) (17) Impersonated any state, county, or city inspector or official:

(18) Is not qualified to perform as a pest control consultant or pesticide dealer manager or certified applicator in the classifications in which he/she is licensed to operate or has operated, regardless of whether or not he/she has previously passed an examination provided for in chapter 15.58 RCW; or

(((s))) (19) To have in his/her possession a department pesticide applicator, operator, dealer manager or pest control consultant examination or to remove or cause to remove any said examination from the department without expressed consent from the department.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-185 RESTRICTIONS APPLYING TO ANY PERSON HOLDING, HANDLING, USING, OR DISPOSING OF PESTICIDES AND THEIR CONTAINERS. (1) Any person applying pesticides to blooms of fruits, cover crops, and other plants shall regulate the timing and technique of application to minimize hazard to commercially important pollinating insects.

(2) No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container or apparatus in such a manner ((that will)) as to pollute water supplies or waterways, or cause damage or injury to land, including humans, desirable plants and animals, pollinating insects, or wildlife: PROVIDED, That a pesticide labeled for aquatic use and used as directed shall not be considered a violation of this subsection: PROVIDED FURTHER, That disposing of pesticides at disposal sites approved by the local health department complies with the requirements of this subsection. Toxicity, volatility, and

mobility of pesticides shall be considered in complying with this subsection.

(((a))) (3) No person shall pollute streams, lakes, and other public water supplies in their pesticide loading and mixing operation. This includes using devices or procedures to prevent "back-syphoning

- (((3))) (4) None of the following pesticides shall be applied by aircraft or airblast sprayers immediately adjacent to occupied schools in session, hospitals, nursing homes or other similar establishments under conditions that may result in contamination of these establishments or their premises:
 - (a) Monocrotophos (Azodrin)
 - (b) Demeton (Systox) ((demeton)))
 - (c) Disulfoton (DiSyston)-liquid
 - (d) Aldicarb (Temik)
 - (e) Endrin
 - (f) Tepp

 - (g) Parathion (h) Phorate (Thimet) (((phorate)))-liquid
 - (i) Mevinphos (Phosdrin)
 - (j) Zinophos
 - ((Schradan (OMPA)))
- (((4))) (5) No person shall apply pesticides if weather conditions are such that physical drift or volatilization may cause damage to adjacent land, including humans, desirable plants or animals.
- (((5))) (6) Requirements for unattended pesticides and their containers:
- (a) Good generally accepted housekeeping practices must be maintained for all pesticides and their containers which are covered under chapter 15.58 RCW.
- (b) The provisions of subsections (5)(d) and (e) shall not apply to empty pesticide containers when adequately decontaminated (e.g., three successive rinsings); shall not apply to categories 3 and 4 pesticide formulations labeled for home and garden use only; and shall not apply to drums of petroleum oils, ((limesulfur)) lime sulfur, and ferrous sulfate.
- (c) For the purposes of subsections (5)(d) and (e), pesticides and their containers at the loading area shall not be considered unattended during the spraying operation if the operator maintains either visual control or repeatedly returns at closely spaced intervals.
- (d) Category 1 highly toxic pesticides ((which labeling requires)) labeled with the signal word "danger" ((and skull and crossbones insignia and the word "poison" on the label.
- (i) These formulations)) and their containers shall be stored in one of the following enclosures which, when unattended, shall be so constructed and locked (except ((5)) (v) below) to prevent children, unauthorized persons, livestock, or other animals from gaining entry. Appropriate warning signs shall be posted on these enclosures or containers. The warning signs shall carry the skull and crossbones symbol and the wording "Danger: - Poison (or pesticide or chemical) storage area - keep out" in letters large enough to be legible at a distance of ((30)) thirty feet. The signs shall be posted to be visible from any direction.
 - ((+:)) (i) Closed vehicle((;)).
 - ((2.)) (ii) Closed trailer((;)).
- ((3.)) (iii) Building or room or fenced area with a fence at least six feet high.
- ((4:)) (iv) Foot locker or other container which can be locked. ((5:)) (v) Unattended trucks or trailers must have solid sideracks and secured tailgate at least six feet above ground, ramp or platform
- ((6.)) (vi) Bulk storage containers ((50)) fifty gallons and larger with tight screw-type bungs and/or secured or locked valves.
- (e) Category 2 pesticides ((which labeling carries)) labeled with the signal word "Warning((;))" and Categories 3 and 4 pesticides ((which labeling carries a)) labeled with the signal word "caution" ((:
- (i) These pesticide formulations)) and their containers shall be stored in secured storage out of the reach of children in one of the enclosures listed in subsection (d)(((i))): PROVIDED, That metal containers, 28 gallons and larger, with tight screw-type bungs, secured or locked valves and sealed five gallon containers (requiring tool to unseal) shall be considered secured storage for pesticides covered in subsection (e).
- ((7-)) (7) No person shall disperse a pesticide from any aircraft while in flight except over the target field and at the customary application height for that crop: PROVIDED, That emergency dumping shall not be considered a violation of this section.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

- WAC 16-228-190 APPLICATOR REQUIREMENTS. (1) Commercial applicators and public operators when applying any pesticide, and private commercial applicators and demonstration and research applicators when applying pesticides restricted to use by certified applicators only, shall keep records which shall include the following:
 - (a) The name of the person for whom the pesticide was applied.
- (b) The address or location of the land where the pesticide was applied.
- (c) The year, month, day and time the pesticide was applied.
- (((d) The person or firm who supplied the pesticide which applied.))
- (((c))) (d) The trade name and/or common name of the pesticide which was applied and((for)) EPA registration number for that product ((when available)).
- (((f))) (e) The direction and estimated velocity of the wind and the temperature at the time the pesticide was applied: PROVIDED, That this subsection does not apply to applications of baits in bait stations and pesticide applications within structures.
- (((g))) (f) The amount, or amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per 100 gallons) of the pesticide used.
- (a) For PCO classification, the amount and concentration of the pesticide(s) applied which may be recorded to the nearest ounce of active ingredient or to the nearest gallon of liquid spray; fumigation records shall include the pounds of gas released per ((1000)) one thousand cubic feet of space, the temperature, and the duration of the exposure period.
 - (((h))) (g) The pests to be controlled (for PCO classification only). (((i))) (h) Specific crop or site to which pesticide was applied.

 - ((((j))) (<u>i)</u> Apparatus license plate number.
- (((k))) (j) Applicator's name and address and the name of the individual making the application.
- (2) Application records shall be completed and available to the department the same day the pesticides were applied.
- (3) Application records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer. The director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee.
- (4) Upon written request, the applicator shall provide the customer with a record of each application of pesticides to his/her land, for the current season, which shall contain the information listed in WAC 16-228-190(1).
- (5) All apparatus shall be kept in good repair and ((shall use)) only that apparatus capable of performing all functions necessary to ((insure)) ensure proper and thorough application of pesticides shall be used. Apparatus shall be cleaned so that no residue remains which may cause injury to land, including humans, desirable plants and animals, from subsequent applications.
- (6) On demand of the director, the applicator shall make immediately available for inspection the pesticides being applied and the apparatus used for the application: PROVIDED, That this inspection is made at the site of application of where the apparatus is located.
- (7) The applicator shall make available necessary safety equipment in proper working order and advise ((his)) the employees on its use to meet the safety requirements of the pesticide label.
- (8) Maintain a uniform mixture at all times in operating apparatus when applying pesticides.
- (9) All containers used for prepared mixtures, other than those in an apparatus, shall have a label identifying the contents as a pesticide, the active ingredient, and appropriate cautions.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-210 FINANCIAL RESPONSIBILITY INSUR-ANCE CERTIFICATE (FRIC). (1) A commercial pesticide applicator's license shall not be issued until a properly executed financial responsibility insurance certificate is filed with the department which shall certify: (Forms to be supplied by the department).

- (a) Name of insured (identical to name on application form)
- (b) Address of insured
- (c) Policy number

- (d) Plane number(s) (if applicable)
- (e) Effective period
- (f) Amount of insurance. Minimum requirements are:

(i) Public liability (personal injury) (((\$25,000.00))) (\$50,000.00);

and property damage (((\$\frac{\$25,000.00}{})) (\$\frac{\$50,000.00}{}); or

- (ii) Alternately providing both public liability (personal injury), and property damage liability coverage within the same limit, providing such policy is issued in an amount of not less than ((\$50,000.00)) \$100,000.00.
- (iii) Amount of deductible (if applicable): Maximum deductible, ((\$500 for aerial; \$250)) \$5,000 for all ((other)) applicators.
- (g) List of any pesticides or group of pesticides not covered by the policy.
- (h) Acknowledgement of provision for ((10)) ten days' prior written notice of cancellation or reduction of the insurance coverage.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-220 EXAMINATION REQUIREMENTS. Any individual who fails any pesticide licensing examination twice shall be required to wait at least ((30)) fourteen days before retaking that examination a third time. Subsequent testing shall be at the director's discretion.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-225 REGULATION OF APPLICATION OF ((RODENTICIDE BAITS)) VERTEBRATE CONTROL PESTICIDES. (((1) PCO applicators and operators shall use rodenticide baits)) Vertebrate control pesticides shall be used only under the following conditions:

(((a) Applicators and operators in charge of baiting operations shall have had training in the use of rodenticides prior to applying them and shall have passed the department's general PCO examinations.

(b) Use only rodenticides that are registered for that use by the Environmental Protection Agency (EPA), or the department; and adhere to the registered label warnings, precautions, use directions, and any regulations restricting their use.

(c) Rodenticides)) (1) Vertebrate control pesticides shall be placed only in locations that are not readily accessible to nonpest animals, children, and unauthorized persons, and in a manner that shall preclude contamination of food, feed, drugs, and other consumer commodities. Exposure of rodenticide baits within buildings shall not be above floor levels.

(((d))) (2) Baits must be colored or otherwise formulated so that they will be identifiable from foods common to the establishment in which the bait is placed. All compound 1080 solutions shall be dyed black. All 1080 baits shall be discolored.

(((e))) (3) When the use of bait boxes is necessary to ((insure)) ensure that baits are not readily accessible to nonpest animals, children, and unauthorized persons, the bait boxes shall be of sturdy construction and designed to accomplish that purpose, and shall be labeled clearly with letters on contrasting background showing the following information:

(((i) For the rodenticides warfarin, pindone (Pival), diphacinone (Diphacin), coumafuryl (Fumarin), chlorophacinone (Rozol) and other anticoagulants, the words "WARNING" — "RODENT BAIT" in letters not less than one-half inch in height and directly under, in letters not less than one-eighth inch in height the word "ANTICOAGULANT" — and name of the rodenticide:

(ii) For the baits containing zinc phosphide, arsenic, Red Squill, strychnine, alpha naphthylthiourea (Antu), Vacor (DLP-787, or barrium carbonate, the words "WARNINO" — "RODENT BAIT" — "POISON" in letters not less than one-half inch in height and the skull and crossbones, in red, not smaller than the letters; and in letters not less than one-eighth inch in height, the name of the rodenticide.))

(a) Any information required by the EPA or Washington state registered label for the bait or the concentrate from which it was formulated.

(b) The name of the active ingredient(s).

(((iii))) (c) For the baits containing Sodium Fluoroacetate (1080), Fluoroacetamide (1081), and phosphorus paste the words "DANGER"— "RODENT BAIT"— "FATAL POISON" in red letters not less than one-half inch in height and the skull and crossbones insignia in red, not smaller than the letters and on contrasting background; and in letters not less than one-eighth inch in height, the name of the rodenticide.

(((iv))) (d) The name of the firm and/or applicator, address, and the telephone number.

(((v) Thallium shall not be used:

(f)) (4) Containers used for exposing ((rodenticides)) vertebrate control baits to pests shall be composed of tough, nonabsorbent, corrosion resistant materials and designed so they cannot be readily overturned or carried off by pest animals. Those containers that are used for exposing ((rodenticides)) vertebrate control pesticides outside of bait boxes shall bear a legible warning label with wording not less restrictive than requirements on bait boxes ((for rodenticides)) being used as per WAC 16-228-225((1)(e))) (3), (except of the size of lettering). Food containers, such as "meat boats" and "souffle cups" are unacceptable. Containers used for liquid bait exposure shall be water and/or liquid impervious.

(((g))) (5) For residential areas, bait portions will be limited at each bait station to quantities containing no more than one-fourth (1/4) of a LD50 dose of the ((rodenticide)) pesticide for a ((70)) seventy kilogram (approximately ((154)) one hundred fifty-four pound) human.

((LD50 ratings shall be established by the director.

(h))) (6) All ((rodenticide)) vertebrate control pesticide stocks, when not in use or when unattended, shall be kept in locked storage or locked service vehicles. In addition, compounds 1080 and 1081 shall be kept in a locked container within locked storage or locked service vehicle.

(((fi)) (7) All containers used for storing or transporting ((rodenticide concentrates)) vertebrate control pesticides shall bear an EPA or department registered label((, or in the case of bulk prepared baits, a label identifying the contents as rodent bait, the active ingredient and appropriate cautions.

(ji)) (8) Servicemen's kits which contain ((rodenticides)) vertebrate control pesticides shall be handled with extra caution and shall not be left where children or other unauthorized persons or nontarget animals might remove contents.

(((k))) (9) Upon completion of a ((rodent)) baiting operation, all bait boxes, containers, and/or throw bags, if they may become readily accessible to the public, shall be recovered for disposal in an approved manner.

(((ft))) (10) Wherever poisoned ((rodent)) carcasses jeopardize public sanitation, or create a health hazard to wildlife, domestic animals, or the public, they must be recovered and disposed of by burning, burying not less than three feet below the soil surface, or placed in proper waste containers and delivered to an approved disposal site.

(((m) When anticoagulant baits are placed outdoors they shall be placed into burrows, tunnels, deep holes, or in covered field rodent bait stations. Grain baits coated with anticoagulants and embedded in paraffin may be used in open bait stations. Compliance with WAC 16-228-225(1)(c) shall be maintained.

(n) Strychnine shall be applied only on grain baits except when used for the control of native rodents, such as porcupines, etc., which shall be in accordance with instructions issued by the United States Bureau of Sports Fisheries and Wildlife Service.))

(11) Thallium-containing compounds shall not be used for vertebrate control.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-230 SPECIAL RESTRICTIONS ON THE USE OF COMPOUNDS 1080, 1081 AND PHOSPHORUS PASTE. (((+1))) Compounds 1080 and 1081, and phosphorus paste shall be restricted for use as follows:

(((a))) (1) No person shall possess or use these ((rodenticides)) pesticides except federal, state, county, or municipal officers or their employees for use in their official duties in pest control; research or chemical laboratories in their respective fields; pest control applicators and operators licensed by the state; and wholesalers or jobbers who distribute, sell, or export these pesticides to the aforementioned receives

(((b))) (2) No person shall use these ((rodenticides)) pesticides in occupied structures such as private homes, apartment houses, other human dwellings ((of)) or food service establishments. Those persons authorized in subsection (((a))) (1) above shall use these ((rodenticides)) pesticides only ((when)) in buildings such as grain elevators, seed houses, warehouses((7)). The portions of these buildings being baited ((are)) must be under control of the licensee. A controlled building is one that is locked or attended and that is under at least once-a-day surveillance by the licensee, unless authorized as per WAC 16-228-230(((1)(g))) (7).

(((c))) (3) Compounds 1080 and 1081 ((may)) shall be used only by authorized persons who have read and will comply with the "Instructions For Using Sodium Fluoroacetate (Compound 1080)", by the National Research Council and all other labeling of the registrant, and are familiar with hazards of the above compounds.

(((d))) (4) Compounds 1080 and 1081 may be used in warehouses and industrial buildings only when warning signs are used which are not less than 8" x 10" with the words "DANGER" -- "FATAL POISON" - "RODENT BAITS" in red letters not less than one inch in height on a contrasting background and the skull and crossbones, in red, not smaller than the letters. These signs must be conspicuously posted at all entrances to the building and portions of the building under control of the licensee. Below is the suggested format:

FATAL POISON - RODENT BAIT

IN THIS AREA



DO NOT TOUCH BAITS



OR DEAD ANIMALS

Name, address and phone number of applicator

All authorized personnel in the building must be notified of the baiting: a diagram showing the number of bait stations and the location of each on the premises must be readily available on the property; and a copy of such diagram must be in the possession of the licensee who is performing the baiting operation.

(((e))) (5) No person shall use compounds 1080 and 1081, or phosphorus paste unless all unused baits are recovered and disposed of appropriately at the end of the baiting operation((:)), and ((Carcasses)) carcasses shall be recovered daily and disposed of as per WAC 16-228-225(((1)(1))) (10), unless a permit issued pursuant to WAC 16-

228-230(7) provides alternative requirements. (((f) Food baits containing compounds 1080 and 1081, or phosphorus paste in nonwater form may be used only in controlled dumps and only if the bait is composed of a dry crumbly particle-type, or in a thin paste so that the bait cannot be readily to other areas by rodents. This bait shall be placed in such a manner so that it will not be readily ac-

cessible to birds, desirable animals, or the public.))

(6) When placed in burrows, ((the)) baits should be put far enough into the burrow so that domestic animals cannot reach ((it)) them readily. Baits applied to dumps should be placed beneath objects, in containers, or into holes so that it is inaccessible. Appropriate warning cards, as per WAC 16-228-230(((1)(d))) (4) shall be conspicuously displayed in adequate numbers whenever compounds 1080 and 1081 or phosphorus baits are used on public property or on private property accessible to the public.

(((g))) (7) Any authorized person desiring to use these ((rodenticides)) pesticides in any areas other than licensee-controlled buildings((;)), controlled dumps((;)), or in emergency situations where application sites are controlled and attended, such as waterfronts, shall apply for and obtain a permit from the director prior to applying the ((rodenticide)) pesticide. These permits may be issued by the department if, after an on-site inspection, the department determines that:

(((i))) (a) Good housekeeping and sanitary procedures are being followed to help control the rodent population;

(((ii))) (b) Rodent populations and conditions are such that an emergency situation exists and less toxic rodenticides and other control measures will not be adequate for the needed rodent control;

(((iii))) c The applicant designates a competent trained person to be named on the permit, who will accept responsibility for properly col-

lecting and disposing of dead rodents; and

(((iv))) d A date is given for completion of the baiting operation (not more than ((30)) thirty days duration) when the licensee will service the bait boxes (if any) and determine if a renewal of the permit

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

- (1) WAC 16-228-174 (2) WAC 16-228-176
- (3) WAC 16-228-178

WSR 84-05-015 PROPOSED RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed February 9, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning Special service programs—Chapter 2 of the Education Consolidation and Improvement Act of 1981, financial assistance to local school districts, chapter 392-165 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 21,

The authority under which these rules are proposed is RCW 28A.02.100.

This notice is connected to and continues the matter in Notice No. WSR 84-02-022 filed with the code reviser's office on December 29, 1983.

> Dated: February 9, 1984 By: Frank B. Brouillet Superintendent of Public Instruction

WSR 84-05-016 ADOPTED RULES SUPERINTENDENT OF **PUBLIC INSTRUCTION**

[Order 84-3—Filed February 9, 1984]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Certified educational clinics-Distribution of state funds, chapter 392-185 WAC.

This action is taken pursuant to Notice No. WSR 84-02-020 filed with the code reviser on December 29, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 28A.97-.050 and is intended to administratively implement that

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED February 9, 1984.

By Frank B. Brouillet Superintendent of Public Instruction

NEW SECTION

WAC 392-185-003 AUTHORITY. The authority for this chapter is RCW 28A.97.050 which authorizes the superintendent of public instruction to adopt rules and regulations to carry out the purpose of chapter 28A.97 RCW, the operation and funding of educational clinics. (The certification or approval of educational clinics is the responsibility of the state board of education. See chapter 180-95 WAC.)

AMENDATORY SECTION (Amending Order 1-78, filed 2/6/78, effective 3/9/78)

WAC 392-185-005 PURPOSE. The purpose of this chapter is to establish the ((regulations)) policies and procedures necessary to distribute funds to certified educational clinics as provided in chapter 28A.97 RCW ((as enacted or hereafter amended and section 95(2), chapter 339, Laws of 1977 ex. sess)).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-185-140 RETURN TO REGULAR SCHOOL PROGRAM.

WSR 84-05-017 ADOPTED RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 84-4-Filed February 9, 1984]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Finance—Maintenance and operation levy limits, chapter 392–139 WAC.

This action is taken pursuant to Notice No. WSR 84-02-021 filed with the code reviser on December 29, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 84.52.0531(7) and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED February 9, 1984.

By Frank B. Brouillet Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 83-18, filed 11/9/83)

WAC 392-139-001 AUTHORITY. The authority for this chapter is RCW ((84.52.053(7)

[84.52.0531(7)])) 84.52.0531(7) which authorizes the superintendent of public instruction to promulgate rules and regulations regarding the limitation of local school district special levies otherwise known as the "Special Levy Lid Law."

WSR 84-05-018 ADOPTED RULES PUBLIC DISCLOSURE COMMISSION

[Order 84-01-Filed February 10, 1984]

Be it resolved by the Public Disclosure Commission, acting at 403 Evergreen Plaza Building, Olympia, WA 98504, FJ-42, that it does adopt the annexed rules relating to:

Amd WAC 390-16-031 Forms for statement of contributions deposit.

Amd WAC 390-16-041 Forms—Summary of total contributions

and expenditures.

Amd WAC 390-20-110 Lobbyist employer's report.

Rep WAC 390-24-300 Forms for report by public treasurers.

This action is taken pursuant to Notice Nos. WSR 83-23-032, 83-24-076 and 83-24-082 filed with the code reviser on November 9, 1983, and December 7, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 42.17.370(1) which directs that the Public Disclosure Commission has authority to implement the provisions of the Washington State Open Government Act.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 24, 1984.

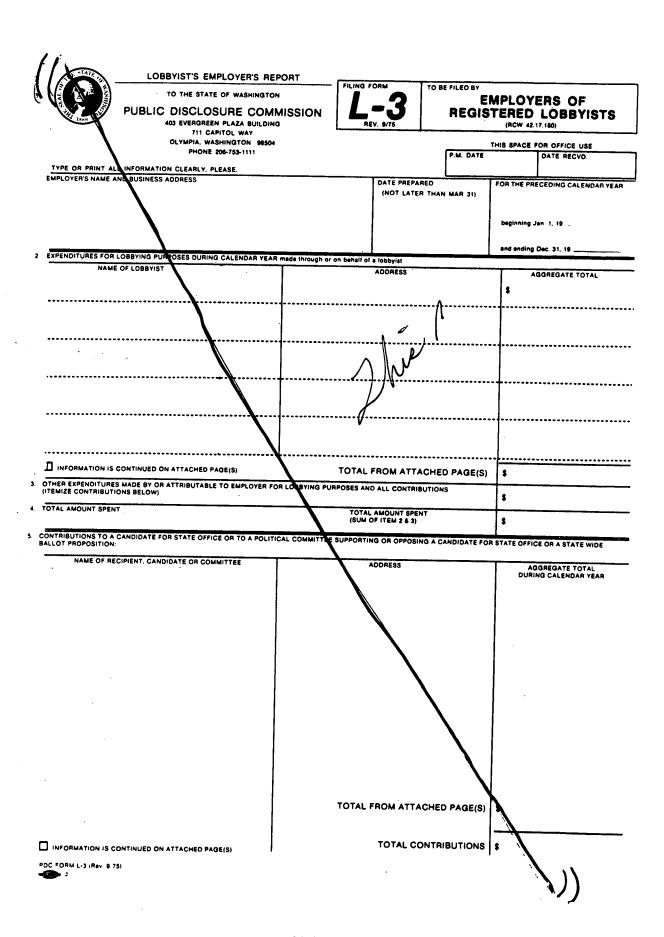
By Graham E. Johnson Administrator

AMENDATORY SECTION (Amending Order 62, filed 8/26/75)

WAC 390-20-110 FORMS FOR ((STATEMENT OF COMPENSATION PAID TO ELECTED OFFI-CIALS)) LOBBYIST EMPLOYERS REPORT. Pursuant to the statutory authority of RCW 42.17.360(1), the official form for statement by employers of registered lobbyists ((of compensation paid to elected officials)) as required by RCW 42.17.180 is hereby adopted for use in reporting to the public disclosure commission. This form, revised 8/83, shall be designated as "L-3." This form as amended shall be used for the report due March 31, 1984. Copies of this form may be obtained at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington, 98504.

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	corrify that the information contained in this report is a true, correct and complete statement in accordance with RCW 42.17.180.	NAME TYPED OR PRINTED		TITLE

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			DOLLAR CODE		
A· B·		CODE	E AMOUNT Less than \$1,000		
		B-81,	000 but less than \$6		·
C-1			,000 but less than \$1 D,000 but less than 1		
MEORMATION CONTINUED ON ATTACHED PAGE	ES	E - 25,	OOO or more		
11. COMPENSATION OF \$500 OR MORE DURING T JOINT VENTURE, ASSOCIATION OR OTHER EN				RVICES F	AID TO ANY CORPORATION, PARTNERSHIP, ANDIDATE OR MEMBER OF THE IMMEDIATE
JOINT VENTURE, ASSOCIATION OR OTHER EN FAMILY HOLDS OFFICE, PARTNERSHIP, DIREC	TORSHIP OR OWNERSHIP INTERE	ST OF	10% OR MORE.		
FIRM NAME	PERSON'S NAME	1	AMOUNT (CODE)	DESC	RIPTION OF CONSIDERATION OR SERVICES LANGED FOR COMPENSATION
PIRM NAME	PERSON S RAME	- 1	(5522)		
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INFORMATION CONTINUED ON ATTACHED PA	 GE8			1	•
		CTLY TO	A STATE ELECTE	D OFFIC	IAL, SUCCESSFUL CANDIDATE FOR STATE
12. ANY EXPENDITURE, NOT OTHERWISE REPORT OFFICE OR MEMBER OF THE IMMEDIATE FAM	IILY, IF MADE TO HONOR, INFLUI	ENCE O	A BENEFIT THE PE	HSON B	
NAME		1	AMOUNT		PURPOSE
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SUFFICIENTION CONTINUED ON ATTACHED PAGES					
POC FORM L-8 (REV. 8/83) BACK -394-	 		· · · · · · · · · · · · · · · · · · ·		
ACC ACTURE FIG. (MEAN BLOOM BANKS)					



NAME	RELATIONSHIP TO CANDIDATE OFFICIAL: IF MEMBER OF FAMIL CANDIDATE	OR ELECTED LY, NAME OF	AMOUNT (BY CODE)	DESCRIPTI EXCHANGE	ON OF CONSIDERATION, SERVICES D FOR COMPENSATION
					•
INFORMATION IS CONTINUED ON A	TACHED A GE(S)		·		
7. ANY CORPORATION, PARTNERSHIP, BER OF HIS IMMEDIATE FAMILY HO PENSATION OF \$500 OR MORE DURI	JOINT VENTURE ASSOCIATION OR OTHER EN LOS AN OFFICE, PARTNERSHIP, DIRECTORSHI ING THE PRECEDING CALENDAR YEAR FOR PI	NTITY IN WHICH P. OR OWNERSH ROFESSIONAL S	ANY STATE EL IIP INTEREST IERVICES.	ECTED OFFIC OF 10% OR MC	CIAL, SUCCESSFUL STATE CANDIDATE OR DRE AND TO WHOM EMPLOYER HAS PAID
FIRM NAME	PERSON'S NAME	TITLE	OR STATUS	AMOUNT (BY CODE)	DESCRIPTION OF CONSIDERATION, SERV EXCHANGED FOR COMPENSA
					•
	(TACHED PAGE(S)				
8. NAME OF STATE ELECTED OFFICIAL INDIRECTLY, THROUGH A LOBBYIS INFLUENCING, HONORING OR BEN	L, SUCCESSFUL CANDIDATE, AND EACH MEM BY OR OTHERWISE, EXCLUDING EXPENDITUR EFITING SUCH PERSON AS AN ELECTED OFFI	CIAL OR CANDII	DATE	Y TO WHOM COURSE OF E	
DATE	NAME	\$	AMOUNT	-	PURPOSE
INFORMATION IS CONTINUED ON A				<u></u>	
	CERT IS A TRUE, COMPLETE AND CORRECT STATE	IFICATION MENT IN ACCOR	N RDANCE WITH TITLE	ROW 42.17.18	• \
I HEREBY CERTIFY THAT THE ABOVE EMPLOYER'S SIGNATURE			DATE:		
					\
EMPLOYER'S SIGNATURE	INSTRUCTIONS	- 	June	<u> </u>	FINANCIAL AMOUNT CODE

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 82-03, filed 5/10/82)

WAC 390-16-031 FORMS FOR STATEMENT OF CONTRIBUTIONS DEPOSIT. Pursuant to the

statutory authority of RCW 42.17.360(1), the official form for statement of contributions deposit as required by RCW 42.17.080(3) and 42.17.090 is hereby adopted for use in reporting to the public disclosure commission. This form, revised ((6/82)) 8/83, shall be designated as "C-3." This form may be obtained at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

endicibe or committee name (ID CASH RECEIPT	rs		P PM Date	
	(Do not abbireviate. Use candidate's	i full name.)		C,	Poor, Oate	
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CONSTANT CONTRACTOR	M ONS DEPOSITED IN ACCOUNT	IONETARY CONTRIB	UTIONS RECEIVE	D		
	pributor's Name	Add	ress, City, Zip . e or print clearly in i	nk.	Amount	Total contribut this person compaten or
		Anonymous or unidentified	d			
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City		County		Zip	S E	
1. MONETARY Date Received	CONTRIBUTIONS DEPOSITED IN	ACCOUNT		1	Amount	Total contributions this person durin campaign or yes
	Anonymous or unidentified.					
	Candidate's personal funds	· •				_
		nized and (optional) number of pe		(persons)		
		from other candidates. Attach S				•
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	mount here and on attached page of the receipt.	show the date of receipt, source	of the money, address, a	and en		
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tres report me			SANTONIE. I CORNY INST	microscien nerest	TO THE CONTROL AN	o compiete.
on		(date)	Treasurer's Signature			Date

That 7 8/83

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 82-03, filed 5/10/82)

WAC 390-16-041 FORMS—SUMMARY OF TOTAL CONTRIBUTIONS AND EXPENDITURES. Pursuant to the statutory authority of RCW

42.17.360(1), the official forms for reports of contributions and expenditures by candidates and political committees as required by RCW 42.17.080 – 42.17.090 and WAC 390–16–120 are hereby adopted for use in reporting to the public disclosure commission. The form, revised ((6/82)) 8/83, shall be designated as "C-4" and includes Schedules A, B, ((and)) C, and T. These forms may be obtained at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

		TION AND EXPENDITURE	SUMMARY		P PM Date D C	
ndid	ate or Committee Name (Do not abl	previate, include candidate's full name).		UT	F F	
res					Recv. Date	
_		County	Zip		U S E	
oorl	From: (last C-4)	To: (end of period)	Funds on hand at start of this report period:	Checking and Petty Cash \$	Sav Oth	er \$
		contributions (From line 8, last C-4) calendar year, see instruction booklet)	RECEIPTS		Report priod	Total for Campaign or Ye
(Cash received during this report	ing period (From line 3, Schedule A)		·	_ 	
,	n kind contributions received du	ring this reporting period (From line 1, Sc	chedule B) .			
1	otal cash and in kind contributi	ons received (Line 2 plus 3)				
,	oan repayments made during th	nis period (From line 5, Schedule A)	•	(-)		
. (Corrections (From line 1 or 4 Sc	chedule C) Show + or (-)		· ·	+	
1	let contributions this period (Co	ombine lines 4, 5, & 8) Show + or (-)			(·)	
	Total cash and in kind contribu	tions during campaign (Total lines 1 & 7)				
	Total pledge payments due (Fro		PENDITURES	This	Report	Total for
			PENDITONES		erlod	Campaign or Y
		nditures (From line 16, last C-4)	1- A)			
		this reporting period (From line 4, Schedu				
		ervices) during this reporting period (From	n line 1, Schedule B)	- 		
	Total cash and in kind expendit	ures made (Line 11 plus line 12)		+		
	Corrections (From line 2 or 4, S	ichedule C) Show + or (-)		(-)	+	
	Net expenditures this period (C	ombine lines 13 & 14) Show + or (-)			(·)	
	Total cash and in kind expendit	ures during campaign (Total lines 10 and	15)			
	Orders placed but not yet paid	(From line 3, Schedule B)				
	Pledges made to other candidate	s or committees but not yet paid (From line	5, Schedule B)	RECAPITUL	ATION	
	ELECTION RESULTS: Candi reports filed after primary of	dates please complete this section for \sim	İ			
	PRIMARY	GENERAL	20. Total loans owed			
	∭ Won	□ Won □ Lost	21. Total unpaid ordera and outstanding bill	8		
	L Lost	Unopposed	22. Total debts and liabili		ine 21) (-)	
	Did not run	□ Did not run				
				htract line 22 from	line 19)	
			23. Surplus or deficit (Su	Otract mie zz nom		
R		formation herein and on accompanying ac	23. Surplus or deficit (Sul hedules and attachments is true Tressurer's Signature (If a po			Date

PDC form C4 (rev 10/62) ---297---

SEE INSTRUCTIONS ON REVERSE

Town form

	CASH	RECEIPTS	AND EXPEN	IDITU	RES			EDULE C4	A	
Candidate or Committee Nam	ne (Do not ab	breviate. Use candid	ate's full name)			-				
CASH RECEIPTS (Contril Date of Deposit	butions) which	h have been reported Type Report (C3 or C3A)	on C3 or C3A. List ea Amount	l	t made since	test C4 report wa Type Repo (C3 or C3/	ות ו	Amou	int	Total Deposits
2. MISCELLANEOUS CASH Date Received	RECEIPTS M	ot reported on C3 or	C3A. Source: Name, Ad	idress and	Explanation	of Receipt	<u>-</u>			Amount
3. TOTAL RECEIPTS	<u></u>							parts 1 and 2 so on line 2 o		
4. CASH EXPENDITURES					-					
Date of Payment	ment was agent, list dor who i	made to an adve advertiser, newsp	ent or vendor paid. ertising agency or t aper, station or othe services. You may ill.	er ven-	support of	Purpose of ecific as possible oppose a candof person or or opposed	ile. If ex didate o	penditure v or ballot me	asure,	Amount
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	candidate	's committee and i nother candidate o	port is for a candida funds have been giv or candidate's comm so complete Schedu	ren or nittee,			(Attacl	ransfers of n Sched. T) expenditures \$50 not list	s each	
	total of		of \$50 or more. R than \$50 which do				Total f	rom attache	ed pages	
								esh Expen ilso on Line		•
5. LOAN REPAYMENTS M.	ADE									
Date		Na	me			Add	Iresa			Amount
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andidate or dommittee			its are incorporated)	NDIT	URES			DULE A	
monate or objinities	Mame (Do not	abbreviate. Use candi	date's full name)						
CASH RECEIPTS (Co	ontributions) wh	ich have been reporte	d on C3 or C3A. List	each depo	sit made aince	last C4 report w	a submitte		
Date of Deb		Type Report (C3 or C3A)	Amount	ŀ	of Deposit	Type Repo (G3 or G3.	NO	Amount	Total Deposits
MISCELLANEOUS CA Date Received	ASH RECEIPTS	pot reported on C3 or	C3A, Source: Name, A	Address ar	nd Explenation	of Receipt	<u></u>	<u> </u>	Amount
TOTAL RECEIPTS		$\overline{}$					Sum of pa	ris 1 and 2 above	
CASH EXPENDITURES							Enter also	on line 2 of C4	
Date of Payment	agent, its	d address of recipies made to an advertiser, newsp. supplied goods or agency order or bi	Prising agency or aper, station or oth services. You may	thru an	list name	Purpose of e polific as possible oppose a cand of person or a or opposed	e. If expe	enditure was to	Amount
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			•••••••	L	•••••		ctal exper	ditures each	
	"Itemize a total of ex have to be	ll expenditures of penditures less the itemized.	\$50 or more. Re an \$50 which do	port not				ion listed above	
			·			To Er	ital Ceah Iter also d	Expenditures on Line 11 of C4	
OAN REPAYMENTS M/ Date	ADE								······································
Daile		Name				Addres	•		Amount
				Ţc	ital Loan Pay	ments this Repo justment to Cont	rting Perio	od .	

iN	KIND CONTRIBUTIONS and EX PLEDGES and ORDERS PI	PENDITURES, LACED	SCHEDULE to C4	В
Candidate or Committee	Name (Do not abbreviate. Use candidate's full name)			٠.
1. In kind contribution	ns received and expended (goods, services, disc	ounts, etc.)		94.2
Date received	Contributor's name and nature of contribution	Address, City, Zip	Fair market value	Total contributions by this person during campaign or year
			·	
	/ W			
	K	TOTAL Enter also on line 3 and line 12 of C4		·
	es made to other candidates and committees	Address Situ Zin	Fair market	
Date	Recipient 0	Address, City, Zip	value	
	Note: Amounts in this section and not darried	forward to C4 report		
3. New orders place	ed (but not yet paid)			_
Date	Recipient	Address, City, Zip	Amount	Purpose
		TOTAL (Include new orders above and all other orders and unpaid bills.) Enter also on lines 17 and 21 of C4		
		Enter also on lines 17 and 21 or or		
Pledges received Date you were notified of pledge	t but not yet paid Name of person (including organizations) making pledge	Address, City, Zip	Amount	Total contributions by this per son during campaign or year
		TOTAL (Include new pledges above and all other outstanding pledges.)		-
		Enter also on line 9 of C4		
5. Pledges made to Date Made	o other candidates and committees (but not yet p Recipient	aid) Address, City, Zip	Amount	
		Enter total on line 18 of C4		-
	<u></u>			

18/2/81

	CORRECTIONS		SCHEDULE C	
date or Committee Name (Do not abbreviate. Use candidate's full name.)	·		Date
Corrections to cash or in	n kind contributions previously reported on C4 Schedule A, C3 or	C3A.		
Date of Report	Name of Contributor or Description of Correction	Amount Reported	Corrected Amount	Difference (+ or -)
			·	
	Enter		ections to Contributions 3 of C4. Show + or (-).	
Corrections to cash or in	kind expenditures previously reported			
Date of Report	Name of Vendor or Description of Correction	Amount Reported	Corrected Amount	Difference (+ or -)
	Enter	Total Corr here and on line 1	ections to Expenditures 4 of C4. Show + or (-).	
oans forgiven. Loans list	ted below and previously reported on C3 reports have been forgivons to that extent.	en in whole or pa	rt and should now be cons	idered as cash or in
Date of Loan	Name of Creditor	Original Amount	Amount Repaid	Amount Forgiven
	Line 20 of C4 should be re	duced by the total	TOTAL 1 amount reported here.	
report (line 4).	amounts have been received as refunds on expenditures previous	sly reported. The	refund has been deposited	and reported on C3
Date of Refund	Source/Person Making Refu	nd		Amount of Refund
		Enter as (-) on	TOTAL line 6 & line 14 of C4.	

TRANSFER OF FUNDS	SCHEDULE To C4
CANDIDATE OR COMMITTEE NAME	

TO BE USED BY CANDIDATES OR CANDIDATE'S COMMITTEE WHICH RECEIVES FUNDS FROM OR TRANSFERS FUNDS TO ANOTHER CANDIDATE OR CANDIDATE'S COMMITTEE.

RECEIPTS

INCLUDE ALL FUNDS RECEIVED FROM ANOTHER CANDIDATE OR CANDIDATE'S COMMITTEE. BE SURE THAT FUNDS REPORTED HERE ARE DEPOSITED IN YOUR CAMPAIGN BANK ACCOUNT AND THAT DEPOSIT IS REPORTED ON FORM C-3.

DATE RECEIVED	CONTRIBUTOR'S NAME	ADDRESS, CITY, ZIP	AMOUNT	TOTAL CONTRIBUTED
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		·		
				!
			<u> </u>	

EXPENDITURES

INCLUDE ALL FUNDS TRANSFERRED TO ANOTHER CANDIDATE OR CANDIDATE'S COMMITTEE. BE SURE THAT FUNDS REPORTED HERE ARE ALSO REPORTED AS AN EXPENDITURE IN ITEM 4, SCHEDULE A TO C-4.

DATE OF PAYMENT	CANDIDATES TO WHOM FUNDS WERE GIVEN	AMOUNT
		:

POC FORM C4T (8:83) 629-

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not in-		Chapter 197-11 WAC SEPA RULES
dicated by the use of these markings.	WAC	
·	197-11-010	Anthonis
		Authority.
	197-11-020	Purpose.
WSR 84-05-019	197-11-030	Policy.
ATTORNEY GENERAL OPINION	197-11-040	Definitions.
Cite as: AGO 1984 No. 4	197-11-050	Lead agency.
[February 9, 1984]	197–11–055	Timing of the SEPA process.
	197–11–060	Content of environmental review.
Offices and Officers—State—Department of	197–11–070	Limitations on actions during SEPA
GAME—DEPARTMENT OF FISHERIES—CRITERIA FOR DE-		process.
NIAL OF HYDRAULIC PERMITS	197–11–080	Incomplete or unavailable
In view of specific language in § 75, chapter 46, Laws of	107 11 000	information.
1983, 1st Ex. Sess., neither the Department of Fisheries	197-11-090	Supporting documents.
nor the Department of Game may now deny, or condi-	197-11-100	Information required of applicants.
	197-11-300	Purpose of this part.
tion, a hydraulic permit applied for under RCW 75.20-	197-11-305	Categorical exemptions.
.100 on the nonstatutory ground that the project, or	197-11-310	Threshold determination required.
other work involved—for which the permit is sought—	197–11–315	Environmental checklist.
would physically conflict with the taking of fish or	197-11-330	Threshold determination process.
shellfish.	197–11–335	Additional information.
February 9, 1984	197–11–340	Determination of nonsignificance (DNS).
Requested by:	197-11-350	Mitigated DNS.
Honorable Brad Owen	197-11-360	Determination of significance (DS)/
St. Sen., 35th District		initiation of scoping.
402-B Legislative Building	197-11-390	Effect of threshold determination.
Olympia, Washington 98504	197–11–400	Purpose of EIS.
	197–11–402	General requirements.
	19711405	EIS types.
	197-11-406	EIS timing.
WSR 84-05-020	19711408	Scoping.
ADOPTED RULES	197-11-410	Expanded scoping. (Optional)
DEPARTMENT OF ECOLOGY	197-11-420	EIS preparation.
(Council on Environmental Policy)	197-11-425	Style and size.
[Order DE 83-39-Filed February 10, 1984-Eff. April 4, 1984]	197-11-430	Format.
	197-11-435	Cover letter or memo.
I, Donald W. Moos, director of the Washington De-	197-11-440	EIS contents.
partment of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to SEPA rules,	197–11–442	Contents of EIS on nonproject proposals.
chapter 197-11 WAC.	197-11-443	EIS contents when prior nonproject
This action is taken pursuant to Notice No. WSR 83-		EIS.
23-114 filed with the code reviser on November 23,	19711444	Elements of the environment.
1983. These rules shall take effect at a later date, such date being April 4, 1984.	197–11–448	Relationship of EIS to other considerations.
This rule is promulgated pursuant to RCW 43.21C-	197-11-450	Cost-benefit analysis.
.110 which directs that the Department of Ecology has	197-11-455	Issuance of DEIS.
authority to implement the provisions of State Environ-	197-11-460	Issuance of FEIS.
mental Policy Act, chapter 43.21C RCW.	197-11-500	Purpose of this Part.
The undersigned hereby declares that the agency has	197-11-502	Inviting comment.
complied with the provisions of the Open Public Meet-	197-11-504	Availability and cost of environmental
ings Act (chapter 42.30 RCW), the Administrative Pro-	·	documents.
cedure Act (chapter 34.04 RCW) and the State Register	197-11-508	SEPA REGISTER.
Act (chapter 34.08 RCW) in the adoption of these rules.	197-11-510	Public notice.
APPROVED AND ADOPTED January 26, 1984.	197-11-535	Public hearings and meetings.
By Donald W. Moos	197–11–545	Effect of no comment.
Director	197-11-550	Specificity of comments.
•	197-11-560	FEIS response to comments.
	197-11-500	Consulted agency costs to assist lead

agency.

197-11-600	When to use existing environmental	197-11-793	Scoping.
	documents.	197–11–794	Significant.
197-11-610	Use of NEPA documents.	197–11–796	State agency.
197-11-620	Supplemental environmental impact	197–11–797	Threshold determination.
	statement—Procedures.	197–11–799	Underlying governmental action.
197-11-625	Addenda—Procedures.	197-11-800	Categorical exemptions.
197-11-630	Adoption—Procedures.	197-11-810	Exemptions and nonexemptions appli-
197-11-635	Incorporation by reference—		cable to specific state agencies.
	Procedures.	197-11-820	Department of licensing.
197–11–640	Combining documents.	197-11-825	Department of labor and industries.
197–11–650	Purpose of this Part.	197–11–830	Department of natural resources.
197–11–655	Implementation.	197–11–835	Department of fisheries.
197–11–660	Substantive authority and mitigation.	197-11-840	Department of game.
197–11–680	Appeals.	197–11–845	Department of social and health services.
197-11-700	Definitions.	107 11 950	Department of agriculture.
197-11-702	Act.	197-11-850 197-11-855	Department of agriculture. Department of ecology.
197–11–704	Action.	197-11-855	Department of transportation.
197–11–706	Addendum.	197-11-865	Utilities and transportation
197–11–708 197–11–710	Adoption. Affected tribe.	177-11-005	commission.
197-11-710	Affecting.	197-11-870	Department of commerce and eco-
197-11-712	Agency.	17, 11 0.0	nomic development.
197-11-714	Applicant.	197-11-875	Other agencies.
197-11-718	Built environment.	197-11-880	Emergencies.
197-11-720	Categorical exemption.	197-11-890	Petitioning DOE to change
197-11-722	Consolidated appeal.		exemptions.
197-11-724	Consulted agency.	197-11-900	Purpose of this Part.
197-11-726	Cost-benefit analysis.	197-11-902	Agency SEPA policies.
197-11-728	County/city.	197-11-904	Agency SEPA procedures.
197-11-730	Decisionmaker.	197–11–906	Content and consistency of agency
197-11-732	Department.		procedures.
197-11-734	Determination of nonsignificance	197–11–908	Environmentally sensitive areas.
	(DNS).	197-11-910	Designation of responsible official.
197–11–736	Determination of significance (DS).	197-11-912	Procedures on consulted agencies.
197–11–738	EIS.	197-11-914	SEPA fees and costs.
197–11–740	Environment.	197-11-916	Application to ongoing actions.
197–11–742	Environmental checklist.	197–11–917	Relationship to chapter 197–10
197-11-744	Environmental document.	107 11 019	WAC.
197–11–746	Environmental review.	197–11–918 197–11–920	Lack of agency procedures. Agencies with environmental
197-11-748	Environmentally sensitive area.	197-11-920	expertise.
197-11-750 197-11-752	Expanded scoping. Impacts.	197-11-922	Lead agency rules.
197-11-754	Incorporation by reference.	197-11-924	Determining the lead agency.
197-11-756	Lands covered by water.	197–11–926	Lead agency for governmental
197–11–758	Lead agency.	.,,,	proposals.
197–11–760	License.	197-11-928	Lead agency for public and private
197-11-762	Local agency.		proposals.
197–11–764	Major action.	197-11-930	Lead agency for private projects with
197-11-766	Mitigated DNS.		one agency with jurisdiction.
197-11-768	Mitigation.	197-11-932	Lead agency for private projects re-
197-11-770	Natural environment.		quiring licenses from more than one
197-11-772	NEPA.		agency, when one of the agencies is
197–11–774	Nonproject.		a county/city.
197–11–776	Phased review.	197–11–934	Lead agency for private projects re-
197–11–778	Preparation.		quiring licenses from a local agency,
197–11–780	Private project.		not a county/city, and one or more
197-11-782	Probable.	107 11 004	state agencies.
197-11-784	Proposal.	197–11–936	Lead agency for private projects re-
197–11–786	Reasonable alternative.		quiring licenses from more than one
197-11-788	Responsible official.	107 11 020	state agency. Lead agencies for specific proposals.
197-11-790	SEPA.	197–11–938	Lead agencies for specific proposals.
197–11–792	Scope.		

197-11-940	Transfer of lead agency status to a state agency.
197-11-942	Agreements on lead agency status.
197–11–944	Agreements on division of lead agency duties.
197–11–946	DOE resolution of lead agency disputes.
197-11-948	Assumption of lead agency status.
197-11-950	Severability.
197-11-955	Effective date.
197-11-960	Environmental checklist.
197-11-965	Adoption notice.
197–11–970	Determination of nonsignificance (DNS).
197–11–980	Determination of significance and scoping notice (DS).
197–11–985	Notice of assumption of lead agency status.
197-11-990	Notice of action.

PART ONE - PURPOSE/AUTHORITY

NEW SECTION

WAC 197-11-010 AUTHORITY. These rules are promulgated under the State Environmental Policy Act (SEPA), chapter 43.21C RCW. RCW 43.21C.110 specifies the content of these rules and grants authority for promulgation. As required in RCW 43.21C.095, these rules shall be given substantial deference in the interpretation of SEPA.

NEW SECTION

WAC 197-11-020 PURPOSE. (1) The purpose of these rules is to establish uniform requirements for compliance with SEPA. Each agency must have its own SEPA procedures consistent with these state-wide rules. The effective date of these rules is stated in 197-11-955.

- (2) These rules replace the previous guidelines in chapter 197-10 WAC.
- (3) The provisions of these rules and the act must be read together as a whole in order to comply with the spirit and letter of the law.

NEW SECTION

WAC 197-11-030 POLICY. (1) The policies and goals set forth in SEPA are supplementary to existing agency authority.

- (2) Agencies shall to the fullest extent possible:
- (a) Interpret and administer the policies, regulations, and laws of the state of Washington in accordance with the policies set forth in SEPA and these rules.
- (b) Find ways to make the SEPA process more useful to decisionmakers and the public; promote certainty regarding the requirements of the act; reduce paperwork and the accumulation of extraneous background data; and emphasize important environmental impacts and alternatives.
- (c) Prepare environmental documents that are concise, clear, and to the point, and are supported by evidence that the necessary environmental analyses have been made.

- (d) Initiate the SEPA process early in conjunction with other agency operations to avoid delay and duplication.
- (c) Integrate the requirements of SEPA with existing agency planning and licensing procedures and practices, so that such procedures run concurrently rather than consecutively.
- (f) Encourage public involvement in decisions that significantly affect environmental quality.
- (g) Identify, evaluate, and require or implement, where required by the act and these rules, reasonable alternatives that would mitigate adverse effects of proposed actions on the environment.

PART TWO - GENERAL REQUIREMENTS

NEW SECTION

WAC 197-11-040 DEFINITIONS. The terms used in these rules are explained in Part Eight, Definitions, 197-11-700 to 197-11-799. This terminology shall be uniform throughout the state as applied to SEPA, chapter 43.21C RCW. References in these rules to 197-11 refer to chapter 197-11 of the Washington Administrative Code (chapter 197-11 WAC).

NEW SECTION

WAC 197-11-050 LEAD AGENCY. (1) A lead agency shall be designated when an agency is developing or is presented with a proposal, following the rules beginning at 197-11-922.

- (2) The lead agency shall be the agency with main responsibility for complying with SEPA's procedural requirements and shall be the only agency responsible for:
 - (a) The threshold determination; and
- (b) Preparation and content of environmental impact statements.

NEW SECTION

WAC 197-11-055 TIMING OF THE SEPA PROCESS. (1) Integrating SEPA and agency activities. The SEPA process shall be integrated with agency activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential problems.

- (2) Timing of review of proposals. The lead agency shall prepare its threshold determination and environmental impact statement (EIS), if required, at the earliest possible point in the planning and decisionmaking process, when the principal features of a proposal and its environmental impacts can be reasonably identified.
- (a) A proposal exists when an agency is presented with an application or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the environmental effects can be meaningfully evaluated.
- (i) The fact that proposals may require future agency approvals or environmental review shall not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of their probable environmental impacts.

- (ii) Preliminary steps or decisions are sometimes needed before an action is sufficiently definite to allow meaningful environmental analysis.
- (b) Agencies shall identify the times at which the environmental review shall be conducted either in their procedures or on a case-by-case basis. Agencies may also organize environmental review in phases, as specified in 197-11-060(5).
- (c) Appropriate consideration of environmental information shall be completed before an agency commits to a particular course of action (197-11-070).
- (3) Applications and rulemaking. The timing of environmental review for applications and for rulemaking shall be as follows:
- (a) At the latest, the lead agency shall begin environmental review, if required, when an application is complete. The lead agency may initiate review earlier and may have informal conferences with applicants. A final threshold determination or FEIS shall normally precede or accompany the final staff recommendation, if any, in a quasi-judicial proceeding on an application. Agency procedures shall specify the type and timing of environmental documents that shall be submitted to planning commissions and similar advisory bodies (197-11-906).
- (b) For rulemaking, the DNS or DEIS shall normally accompany the proposed rule. An FEIS, if any, shall be issued at least seven days before adoption of a final rule (197-11-460(4)).
- (4) Applicant review at conceptual stage. In general, agencies should adopt procedures for environmental review and for preparation of EISs on private proposals at the conceptual stage rather than the final detailed design stage.
- (a) If an agency's only action is a decision on a building permit or other license that requires detailed project plans and specifications, agencies shall provide applicants with the opportunity, for environmental review under SEPA prior to requiring applicants to submit such detailed project plans and specifications.
- (b) Agencies may specify the amount of detail needed from applicants for such early environmental review, consistent with 197-11-100 and 197-11-335, in their SEPA or permit procedures.
- (c) This subsection does not preclude agencies or applicants from preliminary discussions or exploration of ideas and options prior to commencing formal environmental review.
- (5) An overall decision to proceed with a course of action may involve a series of actions or decisions by one or more agencies. If several agencies have jurisdiction over a proposal, they should coordinate their SEPA processes wherever possible. The agencies shall comply with lead agency determination requirements in 197-11-050 and 197-11-922.
- (6) To meet the requirement to insure that environmental values and amenities are given appropriate consideration along with economic and technical considerations, environmental documents and analyses shall be circulated and reviewed with other planning documents to the fullest extent possible.
- (7) For their own public proposals, lead agencies may extend the time limits prescribed in these rules.

WAC 197-11-060 CONTENT OF ENVIRON-MENTAL REVIEW. (1) Environmental review consists of the range of proposed activities, alternatives, and impacts to be analyzed in an environmental document, in accordance with SEPA's goals and policies. This section specifies the content of environmental review common to all environmental documents required under SEPA.

- (2) The content of environmental review:
- (a) Depends on each particular proposal, on an agency's existing planning and decisionmaking processes, and on the time when alternatives and impacts can be most meaningfully evaluated;
- (b) For the purpose of deciding whether an EIS is required, is specified in the environmental checklist, in 197-11-330 and 197-11-444;
- (c) For an environmental impact statement, is considered its "scope" (197-11-792 and Part Four of these rules);
- (d) For any supplemental environmental review, is specified in Part Six.
 - (3) Proposals.
- (a) Agencies shall make certain that the proposal that is the subject of environmental review is properly defined.
- (i) Proposals include public projects or proposals by agencies, proposals by applicants, if any, and proposed actions and regulatory decisions of agencies in response to proposals by applicants.
- (ii) A proposal by a lead agency or applicant may be put forward as an objective, as several alternative means of accomplishing a goal, or as a particular or preferred course of action.
- (iii) Proposals should be described in ways that encourage considering and comparing alternatives. Agencies are encouraged to describe public or nonproject proposals in terms of objectives rather than preferred solutions. A proposal could be described, for example, as "reducing flood damage and achieving better flood control by one or a combination of the following means: Building a new dam; maintenance dredging; use of shoreline and land use controls; purchase of floodprone areas; or relocation assistance."
- (b) Proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action shall be evaluated in the same environmental document. (Phased review is allowed under subsection (5).) Proposals or parts of proposals are closely related, and they shall be discussed in the same environmental document, if they:
- (i) Cannot or will not proceed unless the other proposals (or parts of proposals) are implemented simultaneously with them; or
- (ii) Are interdependent parts of a larger proposal and depend on the larger proposal as their justification or for their implementation.
- (c) (Optional) Agencies may wish to analyze "similar actions" in a single environmental document.

- (i) Proposals are similar if, when viewed with other reasonably foreseeable actions, they have common aspects that provide a basis for evaluating their environmental consequences together, such as common timing, types of impacts, alternatives, or geography. This section does not require agencies or applicants to analyze similar actions in a single environmental document or require applicants to prepare environmental documents on proposals other than their own.
- (ii) When preparing environmental documents on similar actions, agencies may find it useful to define the proposals in one of the following ways: (A) Geographically, which may include actions occurring in the same general location, such as a body of water, region, or metropolitan area; or (B) generically, which may include actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, environmental media, or subject matter.
 - (4) Impacts.
- (a) SEPA's procedural provisions require the consideration of "environmental" impacts (see definition of "environment" in 197–11–740 and of "impacts" in 197–11–752), with attention to impacts that are likely, not merely speculative. (See definition of "probable" in 197–11–782 and 197–11–080 on incomplete or unavailable information.)
- (b) In assessing the significance of an impact, a lead agency shall not limit its consideration of a proposal's impacts only to those aspects within its jurisdiction, including local or state boundaries (See 197-11-330(3) also).
- (c) Agencies shall carefully consider the range of probable impacts, including short-term and long-term effects. Impacts shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer.
- (d) A proposal's effects include direct and indirect impacts caused by a proposal. Impacts include those effects resulting from growth caused by a proposal, as well as the likelihood that the present proposal will serve as a precedent for future actions. For example, adoption of a zoning ordinance will encourage or tend to cause particular types of projects or extension of sewer lines would tend to encourage development in previously unsewered areas.
- (e) The range of impacts to be analyzed in an EIS (direct, indirect, and cumulative impacts, 197-11-792) may be wider than the impacts for which mitigation measures are required of applicants (197-11-660). This will depend upon the specific impacts, the extent to which the adverse impacts are attributable to the applicant's proposal, and the capability of applicants or agencies to control the impacts in each situation.
 - (5) Phased review.
- (a) Lead agencies shall determine the appropriate scope and level of detail of environmental review to coincide with meaningful points in their planning and decisionmaking processes. (See 197-11-055 on timing of environmental review.)
- (b) Environmental review may be phased. If used, phased review assists agencies and the public to focus on

- issues that are ready for decision and exclude from consideration issues already decided or not yet ready. Broader environmental documents may be followed by narrower documents, for example, that incorporate prior general discussion by reference and concentrate solely on the issues specific to that phase of the proposal.
 - (c) Phased review is appropriate when:
- (i) The sequence is from a nonproject document to a document of narrower scope such as a site specific analysis (see, for example, 197-11-443); or
- (ii) The sequence is from an environmental document on a specific proposal at an early stage (such as need and site selection) to a subsequent environmental document at a later stage (such as sensitive design impacts).
 - (d) Phased review is not appropriate when:
- (i) The sequence is from a narrow project document to a broad policy document;
- (ii) It would merely divide a larger system into exempted fragments or avoid discussion of cumulative impacts; or
- (iii) It would segment and avoid present consideration of proposals and their impacts that are required to be evaluated in a single environmental document under 197-11-060(4)(b) or 197-11-305(1); however, the level of detail and type of environmental review may vary with the nature and timing of proposals and their component parts.
- (e) When a lead agency knows it is using phased review, it shall so state in its environmental document.
- (f) Agencies shall use the environmental checklist, scoping process, nonproject EISs, incorporation by reference, adoption, and supplemental EIS's, and addenda, as appropriate, to avoid duplication and excess paperwork.
- (g) Where proposals are related to a large existing or planned network, such as highways, streets, pipelines, or utility lines or systems, the lead agency may analyze in detail the overall network as the present proposal or may select some of the future elements for present detailed consideration. Any phased review shall be logical in relation to the design of the overall system or network, and shall be consistent with this section and 197-11-070.

WAC 197-11-070 LIMITATIONS ON ACTIONS DURING SEPA PROCESS. (1) Until the responsible official issues a final determination of nonsignificance or final environmental impact statement, no action concerning the proposal shall be taken by a governmental agency that would:

- (a) Have an adverse environmental impact; or
- (b) Limit the choice of reasonable alternatives.
- (2) In addition, certain DNSs require a fifteen-day period prior to agency action (197-11-340(2)), and FEISs require a seven-day period prior to agency action (197-11-460(4)).
- (3) In preparing environmental documents, there may be a need to conduct studies that may cause nonsignificant environmental impacts. If such activity is not exempt under 197-11-800(18), the activity may nonetheless proceed if a checklist is prepared and appropriate mitigation measures taken.

(4) This section does not preclude developing plans or designs, issuing requests for proposals (RFPs), securing options, or performing other work necessary to develop an application for a proposal, as long as such activities are consistent with subsection (1).

NEW SECTION

WAC 197-11-080 INCOMPLETE OR UNAVAILABLE INFORMATION. (1) If information on significant adverse impacts essential to a reasoned choice among alternatives is not known, and the costs of obtaining it are not exorbitant, agencies shall obtain and include the information in their environmental documents.

- (2) When there are gaps in relevant information or scientific uncertainty concerning significant impacts, agencies shall make clear that such information is lacking or that substantial uncertainty exists.
- (3) Agencies may proceed in the absence of vital information as follows:
- (a) If information relevant to adverse impacts is essential to a reasoned choice among alternatives, but is not known, and the costs of obtaining it are exorbitant; or
- (b) If information relevant to adverse impacts is important to the decision and the means to obtain it are speculative or not known;

Then the agency shall weigh the need for the action with the severity of possible adverse impacts which would occur if the agency were to decide to proceed in the face of uncertainty. If the agency proceeds, it shall generally indicate in the appropriate environmental documents its worst case analysis and the likelihood of occurrence, to the extent this information can reasonably be developed.

(4) Agencies may rely upon applicants to provide information as allowed in 197-11-100.

NEW SECTION

WAC 197-11-090 SUPPORTING DOCU-MENTS. If an agency prepares background or supporting analyses, studies, or technical reports, such material shall be considered part of the agency's record of compliance with SEPA, as long as the preparation and circulation of such material complies with the requirements in these rules for incorporation by reference and the use of supporting documents.

NEW SECTION

WAC 197-11-100 INFORMATION REQUIRED OF APPLICANTS. Further information may be required if the responsible official determines that the information initially supplied is not reasonably adequate to fulfill the purposes for which it is required. An applicant may, at any time, voluntarily submit information beyond that required under these rules. An agency is allowed to require information from an applicant in the following areas:

(1) Environmental checklist. An applicant may be required to complete the environmental checklist in 197-

11-960 in connection with filing an application (see 197-11-315). Additional information may be required at an applicant's expense, but not until after initial agency review of the checklist (197-11-315 and 197-11-335).

- (2) Threshold determination. Any additional information required by an agency after its initial review of the checklist shall be limited to those elements on the checklist for which the lead agency has determined that information accessible to the agency is not reasonably sufficient to evaluate the environmental impacts of the proposal. The lead agency may require field investigations or research by the applicant reasonably related to determining a proposal's environmental impacts (197–11–335). An applicant may clarify or revise the checklist at any time prior to a threshold determination. Revision of a checklist after a threshold determination is issued shall be made under 197–11–340 or 197–11–360.
- (3) Environmental impact statements. The responsible official may require an applicant to provide relevant information that is not in the possession of the lead agency. Although an agency may include additional analysis not required under SEPA in an EIS (197-11-440(8), 197-11-448(4) and 197-11-640), the agency shall not require the applicant to furnish such information, under these rules. An applicant shall not be required to provide information requested of a consulted agency until the agency has responded or the time allowed for the consulted agency's response has elapsed, whichever is earlier. Preparation of an EIS by the applicant is in 197-11-420.

PART THREE – CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATION

NEW SECTION

WAC 197-11-300 PURPOSE OF THIS PART. This Part provides rules for:

- (1) Administering categorical exemptions for proposals that would not have probable significant adverse impacts:
- (2) Deciding whether a proposal has a probable significant adverse impact and thus requires an EIS (the threshold determination);
- (3) Providing a way to review and mitigate nonexempt proposals through the threshold determination; and
- (4) Integrating SEPA into early planning to ensure appropriate consideration of SEPA's policies and to eliminate duplication and delay.

NEW SECTION

WAC 197-11-305 CATEGORICAL EXEMPTIONS. (1) If a proposal fits within any of the provisions in Part Nine of these rules, the proposal shall be categorically exempt from threshold determination requirements (197-11-720) except as follows:

- (a) The proposal is not exempt under 197-11-908, environmentally sensitive areas.
- (b) The proposal is a segment of a proposal that includes:

- (i) A series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not; or
- (ii) A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction. If so, that agency shall be the lead agency, unless the agencies with jurisdiction agree that another agency should be the lead agency. Agencies may petition the department of ecology to resolve disputes (197-11-946).

For such proposals, the agency or applicant may proceed with the exempt aspects of the proposals, prior to conducting environmental review, if the requirements of 197-11-070 are met.

(2) An agency is not required to document that a proposal is categorically exempt. Agencies may note on an application that a proposal is categorically exempt or place such a determination in agency files.

NEW SECTION

WAC 197-11-310 THRESHOLD DETERMINATION REQUIRED. (1) A threshold determination is required for any proposal which meets the definition of action and is not categorically exempt.

- (2) The responsible official of the lead agency shall make the threshold determination, which shall be made as close as possible to the time an agency has developed or is presented with a proposal (197-11-784).
- (3) In most cases, the time to complete a threshold determination should not exceed fifteen days. Complex proposals, those where additional information is needed, and/or those accompanied by an inaccurate checklist may require additional time. Upon request by an applicant, the responsible official shall select a date for making the threshold determination and notify the applicant of such date in writing.
- (4) All threshold determinations shall be documented in:
- (a) A determination of nonsignificance (DNS) (197–11-340); or
- (b) A determination of significance (DS) (197-11-360).

NEW SECTION

WAC 197-11-315 ENVIRONMENTAL CHECKLIST. (1) Agencies:

- (a) Shall use the environmental checklist substantially in the form found in 197-11-960 to assist in making threshold determinations for proposals, except for: Public proposals on which the lead agency has decided to prepare its own EIS, or proposals on which the lead agency and applicant agree an EIS will be prepared.
- (b) May use an environmental checklist whenever it would assist in their planning and decisionmaking, but shall not require an applicant to prepare a checklist under SEPA, unless a checklist is required by (1)(a) of this section.
- (2) The lead agency shall prepare the checklist or require an applicant to prepare the checklist.

(3) The items in the environmental checklist are not weighted. The mention of one or many adverse environmental impacts does not necessarily mean that the impacts are significant. Conversely, a probable significant adverse impact on the environment may result in the need for an EIS.

NEW SECTION

WAC 197-11-330 THRESHOLD DETERMINA-TION PROCESS. An EIS is required for proposals for legislation and other major actions significantly affecting the quality of the environment. The lead agency decides whether an EIS is required in the threshold determination process, as described below.

- (1) In making a threshold determination, the responsible official shall:
 - (a) Review the environmental checklist, if used:
- (i) Independently evaluating the responses of any applicant and indicating the result of its evaluation in the DS, in the DNS, or on the checklist; and
- (ii) Conducting its initial review of the environmental checklist and any supporting documents without requiring additional information from the applicant.
- (b) Determine if the proposal is likely to have a probable significant adverse environmental impact, based on the proposed action, the information in the checklist (197-11-960), and any additional information furnished under 197-11-335 and 197-11-350; and
- (c) Consider mitigation measures which an agency or the applicant will implement as part of the proposal.
- (2) In making a threshold determination, the responsible official should determine whether:
- (a) All or part of the proposal, alternatives, or impacts have been analyzed in a previously prepared environmental document, which can be adopted or incorporated by reference (see Part Six).
- (b) Environmental analysis would be more useful or appropriate in the future in which case, the agency shall commit to timely, subsequent environmental review, consistent with 197-11-055 through 197-11-070 and Part Six.
- (3) In determining an impact's significance (197-11-794), the responsible official shall take into account the following, that:
- (a) The same proposal may have a significant adverse impact in one location but not in another location;
- (b) The absolute quantitative effects of a proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment;
- (c) Several marginal impacts when considered together may result in a significant adverse impact;
- (d) For some proposals, it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted or values cannot be quantified.
 - (e) A proposal may to a significant degree:
- (i) Adversely affect environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources, parks, prime farmlands, wetlands, wild and scenic rivers, or wilderness;

- (ii) Adversely affect endangered or threatened species or their habitat:
- (iii) Conflict with local, state, or federal laws or requirements for the protection of the environment; and
- (iv) Establish a precedent for future actions with significant effects, involves unique and unknown risks to the environment, or may affect public health or safety.
- (4) If after following 197-11-080 and 197-11-335 the lead agency reasonably believes that a proposal may have a significant adverse impact, an EIS is required.
- (5) A threshold determination shall not balance whether the beneficial aspects of a proposal outweigh its adverse impacts, but rather, shall consider whether a proposal has any probable significant adverse environmental impacts under the rules stated in this section. For example, proposals designed to improve the environment, such as sewage treatment plants or pollution control requirements, may also have significant adverse environmental impacts.

WAC 197-11-335 ADDITIONAL INFORMATION. The lead agency shall make its threshold determination based upon information reasonably sufficient to evaluate the environmental impact of a proposal (197-11-055(2) and 197-11-060(3)). The lead agency may take one or more of the following actions if, after reviewing the checklist, the agency concludes that there is insufficient information to make its threshold determination:

- (1) Require an applicant to submit more information on subjects in the checklist;
- (2) Make its own further study, including physical investigations on a proposed site;
- (3) Consult with other agencies, requesting information on the proposal's potential impacts which lie within the other agencies' jurisdiction or expertise (agencies shall respond in accordance with 197-11-550); or
- (4) Decide that all or part of the action or its impacts are not sufficiently definite to allow environmental analysis and commit to timely, subsequent environmental analysis, consistent with 197-11-055 through 197-11-070.

NEW SECTION

WAC 197-11-340 DETERMINATION OF NONSIGNIFICANCE (DNS). (1) If the responsible official determines there will be no probable significant adverse environmental impacts from a proposal, the lead agency shall prepare and issue a determination of nonsignificance (DNS) substantially in the form provided in 197-11-970. If an agency adopts another environmental document in support of a threshold determination (Part Six), the notice of adoption (197-11-965) and the DNS shall be combined or attached to each other.

- (2) When a DNS is issued for any of the proposals listed in (2)(a), the requirements in this subsection shall be met.
- (a) An agency shall not act upon a proposal for fifteen days after the date of issuance of a DNS if the proposal involves:

- (i) Another agency with jurisdiction;
- (ii) Demolition of any structure or facility not exempted by 197-11-800(2)(f) or 197-11-880:
- (iii) Issuance of clearing or grading permits not exempted in Part Nine of these rules; or
- (iv) A DNS under 197-11-350(2), 197-11-350(3) or 197-11-360(4).
- (b) The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the department of ecology, and affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, and shall give notice under 197–11–510.
- (c) Any person, affected tribe, or agency may submit comments to the lead agency within fifteen days of the date of issuance of the DNS.
- (d) The date of issue for the DNS is the date the DNS is sent to the department of ecology and agencies with jurisdiction and is made publicly available.
- (e) An agency with jurisdiction may assume lead agency status only within this fifteen-day period (197-11-948).
- (f) The responsible official shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents. When a DNS is modified, the lead agency shall send the modified DNS to agencies with jurisdiction.
 - (3)(a) The lead agency shall withdraw a DNS if:
- (i) There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts;
- (ii) There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; or
- (iii) The DNS was procured by misrepresentation or lack of material disclosure; if such DNS resulted from the actions of an applicant, any subsequent environmental checklist on the proposal shall be prepared directly by the lead agency or its consultant at the expense of the applicant.
- (b) Subsection (3)(a)(ii) shall not apply when a non-exempt license has been issued on a private project.
- (c) If the lead agency withdraws a DNS, the agency shall make a new threshold determination and notify other agencies with jurisdiction of the withdrawal and new threshold determination. If a DS is issued, each agency with jurisdiction shall commence action to suspend, modify, or revoke any approvals until the necessary environmental review has occurred (see also 197–11–070).

NEW SECTION

WAC 197-11-350 MITIGATED DNS. The purpose of this section is to allow clarifications or changes to a proposal prior to making the threshold determination.

(1) In making threshold determinations, an agency may consider mitigation measures that the agency or applicant will implement.

- (2) After submission of an environmental checklist and prior to the lead agency's threshold determination on a proposal, an applicant may ask the lead agency to indicate whether it is considering a DS. If the lead agency indicates a DS is likely, the applicant may clarify or change features of the proposal to mitigate the impacts which led the agency to consider a DS likely. The applicant shall revise the environmental checklist as may be necessary to describe the clarifications or changes. The lead agency shall make its threshold determination based upon the changed or clarified proposal. If a proposal continues to have a probable significant adverse environmental impact, even with mitigation measures, an EIS shall be prepared.
- (3) Whether or not an applicant requests early notice under subsection (2), if the lead agency specifies mitigation measures on an applicant's proposal that would allow it to issue a DNS, and the proposal is clarified, changed, or conditioned to include those measures, the lead agency shall issue a DNS.
- (4) Environmental documents need not be revised and resubmitted if the clarifications or changes are stated in writing in documents that are attachments to, or incorporate by reference, the documents previously submitted. An addendum may be used, see Part Six.
- (5) Agencies may clarify or change features of their own proposal, and may specify mitigation measures in their DNSs, as a result of comments by other agencies or the public or as a result of additional agency planning.
- (6) An agency's indication under this section that a DS appears likely shall not be construed as a determination of significance. Likewise, the preliminary discussion of clarifications or changes to a proposal shall not bind the lead agency to a mitigated DNS.
- (7) Agencies may specify procedures for enforcement of mitigation measures in their agency SEPA procedures.

WAC 197-11-360 DETERMINATION OF SIGNIFICANCE (DS)/INITIATION OF SCOPING. (1) If the responsible official determines that a proposal may have a probable significant adverse environmental impact, the responsible official shall prepare and issue a determination of significance (DS) substantially in the form provided in 197-11-980. The DS shall describe the main elements of the proposal, the location of the site, if a site-specific proposal, and the main areas the lead agency has identified for discussion in the EIS. A copy of the environmental checklist may be attached.

- (2) If an agency adopts another environmental document in support of a threshold determination (Part Six), the notice of adoption (197-11-965) and the DS shall be combined or attached to each other.
- (3) The responsible official shall put the DS in the lead agency's file and shall commence scoping (197-11-408) by circulating copies of the DS to the applicant, agencies with jurisdiction and expertise, if any, affected tribes, and to the public. Notice shall be given under 197-11-510. The lead agency is not required to scope if

the agency is adopting another environmental document for the EIS or is preparing a supplemental EIS.

(4) If at any time after the issuance of a DS a proposal is changed so, in the judgment of the lead agency, there are no probable significant adverse environmental impacts, the DS shall be withdrawn and a DNS issued instead. The DNS shall be sent to all who commented on the DS. A proposal shall not be considered changed until all license applications for the proposal are revised to conform to the changes or other binding commitments made by agencies or by applicants.

NEW SECTION

WAC 197-11-390 EFFECT OF THRESHOLD DETERMINATION. (1) When the responsible official makes a threshold determination, it is final and binding on all agencies, subject to the provisions of this section and 197-11-340, 197-11-360, and Part Six.

- (2) The responsible official's threshold determination:
- (a) For proposals listed in 197-11-340(2), shall not be final until fifteen days after issuance.
- (b) Shall not apply if another agency with jurisdiction assumes lead agency status under 197-11-948.
- (c) Shall not apply when withdrawn by the responsible official under 197-11-340 or 197-11-360.
 - (d) Shall not apply when reversed on appeal.
- (3) Regardless of any appeals, a DS or DNS issued by the responsible official may be considered final for purposes of other agencies' planning and decisionmaking unless subsequently changed, reversed, or withdrawn.

PART FOUR – ENVIRONMENTAL IMPACT STATEMENT (EIS)

NEW SECTION

WAC 197-11-400 PURPOSE OF EIS. (1) The primary purpose of an environmental impact statement is to ensure that SEPA's policies are an integral part of the ongoing programs and actions of state and local government.

- (2) An EIS shall provide impartial discussion of significant environmental impacts and shall inform decisionmakers and the public of reasonable alternatives, including mitigation measures, that would avoid or minimize adverse impacts or enhance environmental quality.
- (3) Environmental impact statements shall be concise, clear, and to the point, and shall be supported by the necessary environmental analysis. The purpose of an EIS is best served by short documents containing summaries of, or reference to, technical data and by avoiding excessively detailed and overly technical information. The volume of an EIS does not bear on its adequacy. Larger documents may even hinder the decisionmaking process.
- (4) The EIS process enables government agencies and interested citizens to review and comment on proposed government actions, including government approval of private projects and their environmental effects. This process is intended to assist the agencies and applicants to improve their plans and decisions, and to encourage the resolution of potential concerns or problems prior to issuing a final statement. An environmental impact

statement is more than a disclosure document. It shall be used by agency officials in conjunction with other relevant materials and considerations to plan actions and make decisions.

NEW SECTION

WAC 197-11-402 GENERAL REQUIRE-MENTS. Agencies shall prepare environmental impact statements as follows:

- (1) EISs need analyze only the reasonable alternatives and probable adverse environmental impacts that are significant. Beneficial environmental impacts or other impacts may be discussed.
- (2) The level of detail shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or referenced.
- (3) Discussion of insignificant impacts is not required; if included, such discussion shall be brief and limited to summarizing impacts or noting why more study is not warranted.
- (4) Description of the existing environment and the nature of environmental impacts shall be limited to the affected environment and shall be no longer than is necessary to understand the environmental consequences of the alternatives, including the proposal.
- (5) EISs shall be no longer than necessary to comply with SEPA and these rules. Length should relate first to potential environmental problems and then to the size or complexity of the alternatives, including the proposal.
- (6) The basic features and analysis of the proposal, alternatives, and impacts shall be discussed in the EIS and shall be generally understood without turning to other documents; however, an EIS is not required to include all information conceivably relevant to a proposal, and may be supplemented by appendices, reports, or other documents in the agency's record.
- (7) Agencies shall reduce paperwork and the accumulation of background data by adopting or incorporating by reference, existing, publicly available environmental documents, wherever possible.
- (8) Agencies shall prepare EISs concurrently with and coordinated with environmental studies and related surveys that may be required for the proposal under other laws, when feasible.
- (9) The range of alternative courses of action discussed in EISs shall encompass those to be considered by the decisionmaker.
- (10) EISs shall serve as the means of assessing the environmental impact of proposed agency action, rather than justifying decisions already made.

NEW SECTION

WAC 197-11-405 EIS TYPES. (1) Draft and final environmental impact statements (EISs) shall be prepared; draft and final supplemental EISs may be prepared.

(2) A draft EIS (DEIS) allows the lead agency to consult with members of the public, affected tribes, and agencies with jurisdiction and with expertise. The lead agency shall issue a DEIS and consider comments as stated in Part Five.

- (3) A final EIS (FEIS) shall revise the DEIS as appropriate and respond to comments as required in 197-11-560. An FEIS shall respond to opposing views on significant adverse environmental impacts and reasonable alternatives which the lead agency determines were not adequately discussed in the DEIS. The lead agency shall issue an FEIS as specified by 197-11-460.
- (4) A supplemental EIS (SEIS) shall be prepared as an addition to either a draft or final statement if:
- (a) There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts; or
- (b) There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts.

Preparation of a SEIS shall be carried out as stated in 197-11-620.

(5) Agencies may use federal EISs, as stated in Part Six.

NEW SECTION

WAC 197-11-406 EIS TIMING. The lead agency shall commence preparation of the environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal, so that preparation can be completed in time for the final statement to be included in appropriate recommendations or reports on the proposal (197-11-055). The statement shall be prepared early enough so it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made. EISs may be "phased" in appropriate situations (197-11-060(5)).

NEW SECTION

WAC 197-11-408 SCOPING. (1) The lead agency shall narrow the scope of every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation measures. For example, if there are only two or three significant impacts or alternatives, the EIS shall be focused on those.

- (2) To ensure that every EIS is concise and addresses the significant environmental issues, the lead agency shall:
- (a) Invite agency, affected tribes, and public comment on the DS (197-11-360). If the agency requires written comments, agencies, affected tribes and the public shall be allowed twenty-one days from the date of issuance of the DS in which to comment, unless expanded scoping is used. The date of issuance for a DS is the date it is sent to the department of ecology and other agencies with jurisdiction, and is publicly available.
- (b) Identify reasonable alternatives and probable significant adverse environmental impacts.
- (c) Eliminate from detailed study those impacts that are not significant.
- (d) Work with other agencies to identify and integrate environmental studies required for other government approvals with the EIS, where feasible.

- (3) Agencies, affected tribes, and the public should comment promptly and as specifically as permitted by the details available on the proposal.
- (4) Meetings or scoping documents, including notices that the scope has been revised, may be used but are not required. The lead agency shall integrate the scoping process with its existing planning and decisionmaking process in order to avoid duplication and delay.
- (5) The lead agency shall revise the scope of an EIS if substantial changes are made later in the proposal, or if significant new circumstances or information arise that bear on the proposal and its significant impacts.
- (6) DEISs shall be prepared according to the scope decided upon by the lead agency in its scoping process.
 - (7) EIS preparation may begin during scoping.

WAC 197-11-410 EXPANDED SCOPING. (OPTIONAL) (1) At its option, the lead agency may expand the scoping process to include any or all of the following, which may be applied on a proposal-by-proposal basis:

- (a) Using questionnaires or information packets.
- (b) Using meetings or workshops, which may be combined with any other early planning meetings of the agency.
- (c) Using a coordinator or team from inside or outside the agency.
- (d) Developing cooperative consultation and exchange of information among agencies before the EIS is prepared, rather than awaiting submission of comments on a completed document.
- (e) Coordinating and integrating other government reviews and approvals with the EIS process through memoranda or other methods.
- (f) Inviting participation of agencies with jurisdiction or expertise from various levels of government, such as regional or federal agencies.
- (g) Using other methods as the lead agency may find helpful.
- (2) Use of expanded scoping is intended to promote interagency cooperation, public participation, and innovative ways to streamline the SEPA process. Steps shall be taken, as the lead agency determines appropriate, to encourage and assist public participation. There are no specified procedural requirements for the methods, techniques, or documents which may be used in an expanded scoping process, to provide maximum flexibility to meet these purposes.
- (3) The lead agency shall consult with an applicant prior to deciding the method and schedule for an expanded scoping process.
- (4) Under expanded scoping, an applicant may request, in which case the lead agency shall set, a date by which the lead agency shall determine the scope of the EIS, including the need for any field investigations (to the extent permitted by the details available on the proposal). The date shall occur thirty days or less after the DS is issued, unless the lead agency and applicant agree upon a later date.

NEW SECTION

WAC 197-11-420 EIS PREPARATION. For draft and final EISs and SEISs:

- (1) Preparation of the EIS is the responsibility of the lead agency, by or under the direction of its responsible official, as specified by the lead agency's procedures. No matter who participates in the preparation of the EIS, it is the EIS of the lead agency. The responsible official, prior to distributing an EIS, shall be satisfied that it complies with these rules and the procedures of the lead agency.
- (2) The lead agency may have an EIS prepared by agency staff, an applicant or its agent, or by an outside consultant retained by either an applicant or the lead agency. The lead agency shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.
- (3) If a person other than the lead agency is preparing the EIS, the lead agency shall:
- (a) Coordinate any scoping procedures so that the individual preparing the EIS receives all substantive information submitted by any agency or person;
- (b) Assist in obtaining any information on file with another agency that is needed by the person preparing the EIS;
- (c) Allow any party preparing an EIS access to all public records of the lead agency that relate to the subject of the EIS, under chapter 42.17 RCW (Public Disclosure and Public Records Law).
- (4) Every agency shall specifically provide in its own procedures those situations in which an applicant may be required or authorized to help prepare an EIS. Agency procedures may not require more information of an applicant than allowed by 197-11-100, but may authorize less participation. An applicant may volunteer to provide any information or effort desired, as long as the EIS is supervised and approved by the responsible official. These rules do not prevent an agency from charging any fees which the agency is otherwise allowed to charge (197-11-914).

NEW SECTION

WAC 197-11-425 STYLE AND SIZE. (1) Environmental impact statements shall be readable reports, which allow the reader to understand the most significant and vital information concerning the proposed action, alternatives, and impacts, without turning to other documents, as provided below and in 197-11-402.

- (2) Environmental impact statements shall be concise and written in plain language. EISs shall not be excessively detailed or overly technical. EISs shall explain plainly the meaning of technical terms not generally understood by the general public. This may be done in a glossary or footnotes or by some other means. EISs may include an index for ease in using the statement.
- (3) Most of the text of an environmental impact statement shall discuss and compare the environmental impacts and their significance, rather than describe the

proposal and the environmental setting. Detailed descriptions may be included in appendices or supporting documents.

- (4) The text of an EIS (197-11-430(3)) normally ranges from thirty to fifty pages and may be shorter. The EIS text shall not exceed seventy-five pages; except for proposals of unusual scope or complexity, where the EIS shall not exceed one hundred fifty pages. Appendices and background material shall be bound separately from the EIS if they exceed twenty-five pages, except if the entire document does not exceed one hundred pages or a FEIS is issued under 197-11-560(5).
- (5) If the lead agency decides that additional descriptive material or supporting documentation may be helpful for readers, this background information may be placed in appendices or in separate documents, and shall be readily available to agencies and the public during the comment period.
- (6) Agencies shall incorporate material into an environmental impact statement by reference to cut down on bulk, if an agency can do so without impeding agency and public review of the action (197-11-600 and 197-11-635).

NEW SECTION

WAC 197-11-430 FORMAT. (1) A cover letter or memo from the lead agency shall precede the EIS (197-11-435). A fact sheet (197-11-440(2)) shall be the first section of every EIS.

- (2) The following format should be used unless the lead agency determines that a different format would improve clear presentation of alternatives and environmental analysis for a particular proposal (except that the fact sheet shall always be the first section of an EIS):
 - (a) Fact sheet.
- (b) Table of contents (may include the list of elements of the environment).
 - (c) Summary.
 - (d) Alternatives, including the proposed action.
- (e) Affected environment, significant impacts, and mitigation measures (other than those included in the proposed action).
 - (f) Distribution list (may be included in appendix).
- (g) Appendices, if any (including, for FEIS, comment letters and any separate responses).
- (3) The EIS text is divided into two sections: (d) and (e) above. Agencies have wide latitude to organize and present material as they see fit within these two basic sections. Agencies are not required to discuss each subject in 197-11-440 (5) and (6) and 197-11-444 in a separate section of the EIS.
 - (4) Additional format considerations.
- (a) Where relevant to the alternatives and impacts of a proposal, the analysis specified in 197-11-440 shall be included regardless of the format of a particular statement.
- (b) The format of a FEIS may differ, as specified by 197-11-560.
- (c) Additional flexibility is provided in 197-11-442 and 197-11-443 for environmental impact statements related to nonproject proposals.

- (d) The elements of the environment for purposes of analyzing environmental impacts are stated in 197-11-444
- (e) Additional guidance on the distinction between environmental and other considerations is given in 197–11–448 and 197–11–450.
- (f) EISs may be combined with other documents (197-11-640).

NEW SECTION

WAC 197-11-435 COVER LETTER OR MEMO. (1) A cover letter or memo shall precede every EIS, but shall not be considered part of the EIS for adequacy purposes.

- (2) The cover letter or memo:
- (a) Shall not exceed two pages;
- (b) Shall highlight the key environmental issues and options facing agency decisionmakers as known at the time of issuance;
- (c) May include beneficial, as well as adverse environmental impacts and may mention other relevant considerations for decisionmakers;
- (d) Shall identify, for SEIS's, the EIS being supplemented.

NEW SECTION

WAC 197-11-440 EIS CONTENTS. (1) An EIS shall contain the following, in the style and format prescribed in the preceding sections.

- (2) Fact sheet. The fact sheet shall include the following information in this order:
- (a) A title and brief description (a few sentences) of the nature and location (by street address, if applicable) of the proposal, including principal alternatives.
- (b) The name of the person or entity making the proposal(s) and the proposed or tentative date for implementation.
- (c) The name and address of the lead agency, the responsible official, and the person to contact for questions, comments, and information.
- (d) A list of all licenses which the proposal is known to require. The licenses shall be listed by name and agency; the list shall be as complete and specific as possible.
- (e) Authors and principal contributors to the EIS and the nature or subject area of their contributions.
 - (f) The date of issue of the EIS.
 - (g) The date comments are due (for DEISs).
- (h) The time and place of public hearings or meetings, if any and if known.
- (i) The date final action is planned or scheduled by the lead agency, if known. Agencies may indicate that the date is subject to change. The nature or type of final agency action should be stated unless covered in subsection (a) above.
- (j) The type and timing of any subsequent environmental review to which the lead agency or other agencies have made commitments, if any.
- (k) The location of a prior EIS on the proposal, EIS technical reports, background data, adopted documents,

and materials incorporated by reference for this EIS, if any.

- (1) The cost to the public for a copy of the EIS.
- (3) Table of contents.
- (a) The table of contents should list, if possible, any documents which are appended, adopted, or serve as technical reports for this EIS (but need not list each comment letter).
- (b) The table of contents may include the list of elements of the environment (197-11-444), indicating those elements or portions of elements which do not involve significant impacts.
- (4) Summary. The EIS shall summarize the contents of the statement and shall not merely be an expanded table of contents. The summary shall briefly state the proposal's objectives, specifying the purpose and need to which the proposal is responding, the major conclusions, significant areas of controversy and uncertainty, if any, and the issues to be resolved, including the environmental choices to be made among alternative courses of action and the effectiveness of mitigation measures. The summary need not mention every subject discussed in the EIS, but shall include a summary of the proposal, impacts, alternatives, mitigation measures, and significant adverse impacts that cannot be mitigated. The summary shall state when the EIS is part of a phased review, if known, or the lead agency is relying on prior or future environmental review (which should be generally identified). The lead agency shall make the summary sufficiently broad to be useful to the other agencies with jurisdiction.
 - (5) Alternatives including the proposed action.
- (a) This section of the EIS describes and presents the proposal (or preferred alternative, if one or more exists) and alternative courses of action.
- (b) Reasonable alternatives shall include actions that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation.
- (i) The word "reasonable" is intended to limit the number and range of alternatives, as well as the amount of detailed analysis for each alternative.
- (ii) The "no-action" alternative shall be evaluated and compared to other alternatives.
- (iii) Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts either directly, or indirectly through requirement of mitigation measures.
 - (c) This section of the EIS shall:
- (i) Describe the objective(s), proponent(s), and principal features of reasonable alternatives. Include the proposed action, including mitigation measures that are part of the proposal.
- (ii) Describe the location of the alternatives including the proposed action, so that a lay person can understand it. Include a map, street address, if any, and legal description (unless long or in metes and bounds).
- (iii) Identify any phases of the proposal, their timing, and previous or future environmental analysis on this or related proposals, if known.
- (iv) Tailor the level of detail of descriptions to the significance of environmental impacts. The lead agency

- should retain any detailed engineering drawings and technical data, that have been submitted, in agency files and make them available on request.
- (v) Devote sufficiently detailed analysis to each reasonable alternative to permit a comparative evaluation of the alternatives including the proposed action. The amount of space devoted to each alternative may vary. One alternative (including the proposed action) may be used as a benchmark for comparing alternatives. The EIS may indicate the main reasons for eliminating alternatives from detailed study.
- (vi) Present a comparison of the environmental impacts of the reasonable alternatives, and include the no action alternative. Although graphics may be helpful, a matrix or chart is not required. A range of alternatives or a few representative alternatives, rather than every possible reasonable variation, may be discussed.
- (vii) Discuss the benefits and disadvantages of reserving for some future time the implementation of the proposal, as compared with possible approval at this time. The agency perspective should be that each generation is, in effect, a trustee of the environment for succeeding generations. Particular attention should be given to the possibility of foreclosing future options by implementing the proposal.
- (d) When a proposal is for a private project on a specific site, the lead agency shall be required to evaluate only the no action alternative plus other reasonable alternatives for achieving the proposal's objective on the same site. This subsection shall not apply when the proposal includes a rezone, unless the rezone is for a use allowed in an existing comprehensive plan that was adopted after review under SEPA. Further, alternative sites may be evaluated if other locations for the type of proposed use have not been included or considered in existing planning or zoning documents.
- (6) Affected environment, significant impacts, and mitigation measures.
- (a) This section of the EIS shall describe the existing environment that will be affected by the proposal, analyze significant impacts of alternatives including the proposed action, and discuss reasonable mitigation measures that would significantly mitigate these impacts. Elements of the environment that are not significantly affected need not be discussed. Separate sections are not required for each subject (see 197-11-430(3)).
 - (b) General requirements for this section of the EIS.
- (i) This section shall be written in a nontechnical manner which is easily understandable to lay persons whenever possible, with the discussion commensurate with the importance of the impacts. Only significant impacts must be discussed; other impacts may be discussed.
- (ii) Although the lead agency should discuss the affected environment, environmental impacts, and other mitigation measures together for each element of the environment where there is a significant impact, the responsible official shall have the flexibility to organize this section in any manner useful to decisionmakers and the public (see 197-11-430(3)).
- (iii) This subsection is not intended to duplicate the analysis in subsection (5) and shall avoid doing so to the fullest extent possible.

- (c) This section of the EIS shall:
- (i) Succinctly describe the principal features of the environment that would be affected, or created, by the alternatives including the proposal under consideration. Inventories of species should be avoided, although rare, threatened, or endangered species should be indicated.
- (ii) Describe and discuss significant impacts that will narrow the range or degree of beneficial uses of the environment or pose long term risks to human health or the environment, such as storage, handling, or disposal of toxic or hazardous material.
- (iii) Clearly indicate those mitigation measures (not described in the previous section as part of the proposal or alternatives), if any, that could be implemented or might be required, as well as those, if any, that agencies or applicants are committed to implement.
- (iv) Indicate what the intended environmental benefits of mitigation measures are for significant impacts, and may discuss their technical feasibility and economic practicability, if there is concern about whether a mitigation measure is capable of being accomplished. The EIS need not analyze mitigation measures in detail unless they involve substantial changes to the proposal causing significant adverse impacts, or new information regarding significant impacts, and those measures will not be subsequently analyzed under SEPA (see 197-11-660(2)). An EIS may briefly mention nonsignificant impacts or mitigation measures to satisfy other environmental review laws or requirements covered in the same document (197-11-402(8) and 197-11-640).
- (v) Summarize significant adverse impacts that cannot or will not be mitigated.
 - (d) This section shall incorporate, when appropriate:
- (i) A summary of existing plans (for example: land use and shoreline plans) and zoning regulations applicable to the proposal, and how the proposal is consistent and inconsistent with them.
- (ii) Energy requirements and conservation potential of various alternatives and mitigation measures, including more efficient use of energy, such as insulating, as well as the use of alternate and renewable energy resources.
- (iii) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.
- (iv) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.
- (e) Significant impacts on both the natural environment and the built environment must be analyzed, if relevant (197-11-444). This involves impacts upon and the quality of the physical surroundings, whether they are in wild, rural, or urban areas. Discussion of significant impacts shall include the cost of and effects on public services, such as utilities, roads, fire, and police protection, that may result from a proposal. EISs shall also discuss significant environmental impacts upon land and shoreline use, which includes housing, physical blight, and significant impacts of projected population on environmental resources, as specified by RCW 43.21C-.110 (1) (d) and (f), as listed in 197-11-444.

- (7) Appendices. Comment letters and responses shall be circulated with the FEIS as specified by 197-11-560. Technical reports and supporting documents need not be circulated with an EIS (197-11-425(4) and 197-11-440(2)(k)), but shall be readily available to agencies and the public during the comment period.
- (8) (Optional) The lead agency may include, in an EIS or appendix, the analysis of any impact relevant to the agency's decision, whether or not environmental. The inclusion of such analysis may be based upon comments received during the scoping process. The provision for combining documents may be used (197-11-640). The EIS shall comply with the format requirements of this Part. The decision whether to include such information and the adequacy of any such additional analysis shall not be used in determining whether an EIS meets the requirements of SEPA.

WAC 197-11-442 CONTENTS OF EIS ON NONPROJECT PROPOSALS. (1) The lead agency shall have more flexibility in preparing EISs on nonproject proposals, because there is normally less detailed information available on their environmental impacts and on any subsequent project proposals. The EIS may be combined with other planning documents.

- (2) The lead agency shall discuss impacts and alternatives in the level of detail appropriate to the scope of the nonproject proposal and to the level of planning for the proposal. Alternatives should be emphasized. In particular, agencies are encouraged to describe the proposal in terms of alternative means of accomplishing a stated objective (see 197-11-060(3)). Alternatives including the proposed action should be analyzed at a roughly comparable level of detail, sufficient to evaluate their comparative merits (this does not require devoting the same number of pages in an EIS to each alternative).
- (3) If the nonproject proposal concerns a specific geographic area, site specific analyses are not required, but may be included for areas of specific concern. The EIS should identify subsequent actions that would be undertaken by other agencies as a result of the nonproject proposal, such as transportation and utility systems.
- (4) The EIS's discussion of alternatives for a comprehensive plan, community plan, or other areawide zoning or for shoreline or land use plans shall be limited to a general discussion of the impacts of alternate proposals for policies contained in such plans, for land use or shoreline designations, and for implementation measures. The lead agency is not required under SEPA to examine all conceivable policies, designations, or implementation measures but should cover a range of such topics. The EIS content may be limited to a discussion of alternatives which have been formally proposed or which are, while not formally proposed, reasonably related to the proposed action.

NEW SECTION

WAC 197-11-443 EIS CONTENTS WHEN PRI-OR NONPROJECT EIS. (1) The provisions for phased review (197-11-060(5)) and use of existing environmental documents, Part Six, apply to EISs on nonproject proposals.

- (2) A nonproject proposal may be approved based on an EIS assessing its broad impacts. When a project is then proposed that is consistent with the approved nonproject action, the EIS on such a project shall focus on the impacts and alternatives including mitigation measures specific to the subsequent project and not analyzed in the nonproject EIS. The scope shall be limited accordingly. Procedures for use of existing documents shall be used as appropriate, see Part Six.
- (3) When preparing a project EIS under the preceding subsection, the lead agency shall review the nonproject EIS to ensure that the analysis is valid when applied to the current proposal, knowledge, and technology. If it is not valid, the analysis shall be reanalyzed in the project EIS.

NEW SECTION

WAC 197-11-444 ELEMENTS OF THE ENVI-RONMENT. (1) Natural environment

- (a) Earth
- (i) Geology
- (ii) Soils
- (iii) Topography
- (iv) Unique physical features
- (v) Erosion/enlargement of land area (accretion)
- (b) Air
- (i) Air quality
- (ii) Odor
- (iii) Climate
- (c) Water
- (i) Surface water movement/quantity/quality
- (ii) Runoff/absorption
- (iii) Floods
- (iv) Ground water movement/quantity/quality
- (v) Public water supplies
- (d) Plants and animals
- (i) Habitat for and numbers or diversity of species of plants, fish, or other wildlife
 - (ii) Unique species
 - (iii) Fish or wildlife migration routes
 - (e) Energy and natural resources
 - (i) Amount required/rate of use/efficiency
 - (ii) Source/availability
 - (iii) Nonrenewable resources
 - (iv) Conservation and renewable resources
 - (v) Scenic resources
 - (2) Built environment
 - (a) Environmental health
 - (i) Noise
 - (ii) Risk of explosion
- (iii) Releases or potential releases to the environment affecting public health, such as toxic or hazardous materials
 - (b) Land and shoreline use
- (i) Relationship to existing land use plans and to estimated population
 - (ii) Housing
 - (iii) Light and glare
 - (iv) Aesthetics

- (v) Recreation
- (vi) Historic and cultural preservation
- (vii) Agricultural crops
- (c) Transportation
- (i) Transportation systems
- (ii) Vehicular traffic
- (iii) Waterborne, rail, and air traffic
- (iv) Parking
- (v) Movement/circulation of people or goods
- (vi) Traffic hazards
- (d) Public services and utilities
- (i) Fire
- (ii) Police
- (iii) Schools
- (iv) Parks or other recreational facilities
- (v) Maintenance
- (vi) Communications
- (vii) Water/storm water
- (viii) Sewer/solid waste
- (ix) Other governmental services or utilities
- (3) To simplify the EIS format, reduce paperwork and duplication, improve readability, and focus on the significant issues, some or all of the elements of the environment in 197-11-444 may be combined.

NEW SECTION

WAC 197-11-448 RELATIONSHIP OF EIS TO OTHER CONSIDERATIONS. (1) SEPA contemplates that the general welfare, social, economic, and other requirements and essential considerations of state policy will be taken into account in weighing and balancing alternatives and in making final decisions. However, the environmental impact statement is not required to evaluate and document all of the possible effects and considerations of a decision or to contain the balancing judgments that must ultimately be made by the decisionmakers. Rather, an environmental impact statement analyzes environmental impacts and must be used by agency decisionmakers, along with other relevant considerations or documents, in making final decisions on a proposal. The EIS provides a basis upon which the responsible agency and officials can make the balancing judgment mandated by SEPA, because it provides information on the environmental costs and impacts. SEPA does not require that an EIS be an agency's only decisionmaking document.

- (2) The term "socioeconomic" is not used in the statute or in these rules because the term does not have a uniform meaning and has caused a great deal of uncertainty. Areas of urban environmental concern which must be considered are specified in RCW 43.21C.110(1)(f), the environmental checklist (197-11-960) and 197-11-440 and 197-11-444.
- (3) Examples of information that are not required to be discussed in an EIS are: Methods of financing proposals, economic competition, profits and personal income and wages, and social policy analysis (such as fiscal and welfare policies and nonconstruction aspects of education and communications). EISs may include whether housing is low, middle, or high income.
- (4) Agencies have the option to combine EISs with other documents or to include additional analyses in

EISs, that will assist in making decisions (197-11-440(8) and 197-11-640). Agencies may use the scoping process to help identify issues of concern to citizens.

NEW SECTION

WAC 197-11-450 COST-BENEFIT ANALYSIS. A cost-benefit analysis (197-11-726) is not required by SEPA. If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered by an agency for the proposal, it may be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. For purposes of complying with SEPA, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations.

NEW SECTION

WAC 197-11-455 ISSUANCE OF DEIS. (1) A draft EIS shall be issued by the responsible official and sent to the following:

- (a) The department of ecology (2 copies).
- (b) Each federal agency with jurisdiction over the proposal.
- (c) Each agency with jurisdiction over or environmental expertise on the proposal.
- (d) Each city/county in which adverse environmental impacts identified in the EIS may occur, if the proposal were implemented.
- (e) Each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal.
- (f) The applicable local, area—wide, or regional agency, if any, that has been designated under federal law to conduct intergovernmental review and coordinate federal activities with state or local planning.
- (g) Any person requesting a copy of the EIS from the lead agency (fee may be charged for DEIS, see 197-11-504).
 - (h) Any affected tribe.
- (2) The lead agency is encouraged to send a notice of availability or a copy of the DEIS to any person, organization or governmental agency that has expressed an interest in the proposal, is known by the lead agency to have an interest in the type of proposal being considered, or receives governmental documents (for example, local and regional libraries). This is not meant to duplicate subsection (1)(g) of this section.
- (3) The lead agency should make additional copies available at its offices to be reviewed or obtained.
- (4) The date of issue is the date the DEIS is publicly available and sent to the department of ecology and other agencies with jurisdiction.
- (5) Notice that a DEIS is available shall be given under 197-11-510.
- (6) Any person or agency shall have thirty days from the date of issue in which to review and comment upon the DEIS.
- (7) Upon request, the lead agency may grant an extension of up to fifteen days to the comment period.

Agencies and the public must request any extension before the end of the comment period.

(8) The rules for notice, costs, commenting, and response to comments on EISs are stated in Part Five of these rules.

NEW SECTION

WAC 197-11-460 ISSUANCE OF FEIS. (1) A final EIS (FEIS) shall be issued by the responsible official and sent to the department of ecology (2 copies), to all agencies with jurisdiction, to all agencies who commented on the DEIS, and to anyone requesting a copy of the FEIS. (Fees may be charged for the FEIS, see 197-11-504.)

- (2) The responsible official shall send the FEIS, or a notice that the FEIS is available, to anyone who commented on the DEIS and to those who received but did not comment on the DEIS. If the agency receives petitions from a specific group or organization, a notice or EIS may be sent to the group and not to each petitioner. Failure to notify any individual under this subsection shall not affect the legal validity of an agency's SEPA compliance.
- (3) The lead agency should make additional copies available in its offices for review.
- (4) The date of issue is the date the FEIS, or notice of availability, is sent to the persons and agencies specified in the preceding subsections and the FEIS is publicly available. Copies sent to the department of ecology shall satisfy the statutory requirement of availability to the governor and to the ecological commission.
- (5) Agencies shall not act on a proposal for which an EIS has been required prior to seven days after issuance of the FEIS.
- (6) The lead agency shall issue the FEIS within sixty days of the end of the comment period for the DEIS, unless the proposal is unusually large in scope, the environmental impact associated with the proposal is unusually complex, or extensive modifications are required to respond to public comments.
- (7) The form and content of the FEIS is specified in 197-11-560.

PART FIVE - COMMENTING

NEW SECTION

WAC 197-11-500 PURPOSE OF THIS PART. This Part provides rules for:

- (1) Notice and public availability of environmental documents, especially environmental impact statements;
- (2) Consultation and comment by agencies and members of the public on environmental documents;
 - (3) Public hearings and meetings; and
- (4) Lead agency response to comments and preparation of final environmental impact statements. Review, comment, and responsiveness to comments on a draft EIS are the focal point of the act's commenting process because the DEIS is developed as a result of scoping and serves as the basis for the final statement.

WAC 197-11-502 INVITING COMMENT. (1) Agency efforts to involve other agencies and the public in the SEPA process should be commensurate with the type and scope of the environmental document.

- (2) Consulted agencies have a responsibility to respond in a timely and specific manner to requests for comments (197-11-545, 197-11-550, and 197-11-724).
 - (3) Threshold determinations.
- (a) Agencies shall send DNSs to other agencies with jurisdiction, if any, as required by 197-11-340(2).
- (b) For DNSs issued under 197-11-340(2), agencies shall provide public notice under 197-11-510 and receive comments on the DNS for fifteen days.
 - (4) Scoping.
- (a) Agencies shall circulate the DS and invite comments on the scope of an EIS, as required by 197-11-360, 197-11-408, and 197-11-510.
- (b) Agencies may use other reasonable methods to inform agencies and the public, such as those indicated in 197-11-410.
- (c) The lead agency determines the method for commenting (197-11-408 and 197-11-410).
 - (5) DEIS.
- (a) Agencies shall invite comments on and circulate DEISs as required by 197-11-455.
- (b) The commenting period shall be thirty days unless extended by the lead agency under 197-11-455.
- (c) Agencies shall comment and respond as stated in this Part. This meets the act's formal consultation and comment requirement in RCW 43.21C.030(2)(d).
 - (6) Public hearings and meetings.
- (a) Public hearings or meetings may be held (197-11-535). Notice of such public hearings shall be given under 197-11-510 and may be combined with other agency notice.
- (b) In conjunction with the requirements of 197-11-510, notice of public hearings shall be published no later than ten days before the hearing. For nonproject proposals, notice of the public hearing shall be published in a newspaper of general circulation in the general area where the lead agency has its principal offices. For nonproject proposals having a regional or state-wide applicability, copies of the notice shall be given to the Olympia bureaus of the associated press and united press international.
- (7) FEIS. Agencies shall circulate FEISs as required by 197-11-460.
 - (8) Supplements.
- (a) Notice for and circulation of draft and final SEISs shall be done in the same manner as other draft and final EISs.
- (b) When a DNS is issued after a DS has been withdrawn (197-11-360(4)), agencies shall give notice under 197-11-510 and receive comments for fifteen days.
- (c) An addendum need not be circulated unless required under 197-11-625.
- (9) Appeals. Notice provisions for appeals are in 197–11–680.

- (10) Agencies may circulate any other environmental documents for the purpose of providing information or seeking comment, as an agency deems appropriate.
- (11) In addition to any required notice or circulation, agencies may use any other reasonable methods, to inform agencies and the public that environmental documents are available or that hearings will occur.
- (12) Agencies may combine SEPA notices with other agency notices. However, the SEPA information must be identifiable.

NEW SECTION

WAC 197-11-504 AVAILABILITY AND COST OF ENVIRONMENTAL DOCUMENTS. (1) SEPA documents required by these rules shall be retained by the lead agency and made available in accordance with chapter 42.17 RCW.

(2) The lead agency shall make copies of any environmental document available in accordance with chapter 42.17 RCW, charging only those costs allowed plus mailing costs. However, no charge shall be levied for circulation of documents to other agencies as required by these rules. Agencies are encouraged, if requested, to waive the charge for an environmental document (not including the SEPA REGISTER) provided to a public interest organization.

NEW SECTION

WAC 197-11-508 SEPA REGISTER. (1) The department of ecology shall publish and mail each week a SEPA REGISTER, giving notice of all environmental documents required to be sent to the department of ecology under these rules, specifically:

- (a) DNSs under 197-11-340(2);
- (b) DSs (scoping notices) under 197-11-408:
- (c) EISs under 197-11-455, 197-11-460, 197-11-620, and 197-11-630; and
- (d) Notices of Action under RCW 43.21C.080 and 43.21C.087.
- (2) All agencies shall submit the environmental documents listed in subsection (1) to the department promptly and in accordance with procedures established by the department.
- (3) Agencies are encouraged to subscribe to the SEPA REGISTER.
 - (4) The department:
- (a) May establish a reasonable format for publishing the required notices in the SEPA REGISTER;
- (b) May charge a reasonable fee for the SEPA REG-ISTER as allowed by law, in at least the amount allowed by chapter 42.17 RCW, from agencies, members of the public, and interested organizations.
- (5) Members of the public, citizen and community groups, and educational institutions are encouraged to subscribe and refer to the SEPA REGISTER for notice of SEPA actions which may affect them.

NEW SECTION

WAC 197-11-510 PUBLIC NOTICE. (1) When these rules require notice to be given under this section, the lead agency must use reasonable methods to inform

the public and other agencies that an environmental document is being prepared or is available and that public hearing(s), if any, will be held. The agency may use its existing notice procedures.

Examples of reasonable methods to inform the public are:

- (a) Posting the property, for site-specific proposals;
- (b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;
- (c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;
 - (d) Notifying the news media;
- (e) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or
- (f) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals or subject areas).
- (2) Each agency shall specify its method of public notice in its SEPA procedures, 197-11-904 and 197-11-906. If an agency does not specify its method of public notice or does not adopt SEPA procedures, the agency shall use methods (a) and (b) in subsection (1).
- (3) Documents which are required to be sent to the department of ecology under these rules will be published in the SEPA REGISTER, which will also constitute a form of public notice. However, publication in the SEPA REGISTER shall not, in itself, meet compliance with this section.

NEW SECTION

WAC 197-11-535 PUBLIC HEARINGS AND MEETINGS. (1) If a public hearing on the proposal is held under some other requirement of law, such hearing shall be open to consideration of the environmental impact of the proposal, together with any environmental document that is available. This does not require extension of the comment periods for environmental documents.

- (2) In all other cases a public hearing on the environmental impact of a proposal shall be held whenever one or more of the following situations occur:
- (a) The lead agency determines, in its sole discretion, that a public hearing would assist it in meeting its responsibility to implement the purposes and policies of SEPA and these rules; or
- (b) When fifty or more persons residing within the jurisdiction of the lead agency, or who would be adversely affected by the environmental impact of the proposal, make written request to the lead agency within thirty days of issuance of the draft EIS; or
- (c) When two or more agencies with jurisdiction over a proposal make written request to the lead agency within thirty days of the issuance of the draft EIS.
- (3) Whenever a public hearing is held under subsection (2) of this section, it shall occur no earlier than fifteen days from the date the draft EIS is issued, nor later than fifty days from its issuance. Notice shall be given under 197-11-502(6) and 197-11-510 and may be combined with other agency notice.

- (4) If a public hearing is required under this chapter, it shall be open to discussion of all environmental documents and any written comments that have been received by the lead agency prior to the hearing. A copy of the environmental document shall be available at the public hearing.
- (5) Comments at public hearings should be as specific as possible (see 197-11-550).
- (6) Agencies and their designees may hold informal public meetings or workshops. Such gatherings may be more flexible than public hearings and are not subject to the above notice and similar requirements for public hearings.

NEW SECTION

- WAC 197-11-545 EFFECT OF NO COMMENT. (1) Consulted agencies. If a consulted agency does not respond with written comments within the time periods for commenting on environmental documents, the lead agency may assume that the consulted agency has no information relating to the potential impact of the proposal as it relates to the consulted agency's jurisdiction or special expertise. Any consulted agency that fails to submit substantive information to the lead agency in response to a draft EIS is thereafter barred from alleging any defects in the lead agency's compliance with Part Four of these rules.
- (2) Other agencies and the public. Lack of comment by other agencies or members of the public on environmental documents, within the time periods specified by these rules, shall be construed as lack of objection to the environmental analysis, if the requirements of 197-11-510 are met.

NEW SECTION

WAC 197-11-550 SPECIFICITY OF COM-MENTS. (1) Comments on an EIS, DNS, scoping notice or proposal shall be as specific as possible and may address either the adequacy of the environmental document or the merits of the alternatives discussed or both.

- (2) Commenters shall briefly describe the nature of any documents referenced in their comments, indicating the material's relevance, and should indicate where the material can be reviewed or obtained.
- (3) Methodology. When an agency criticizes a lead agency's predictive methodology, the commenting agency should describe, when possible, the alternative methodology which it prefers and why.
- (4) Additional information. A consulted agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs, to the extent permitted by the details available on the proposal.
- (5) Mitigation measures. When an agency with jurisdiction objects to or expresses concerns about a proposal, it shall specify the mitigation measures, if any are possible, it considers necessary to allow an agency to grant or approve applicable licenses.

- (6) Comments by other agencies. Commenting agencies that are not consulted agencies shall specify any additional information or mitigation measures the commenting agency believes are necessary or desirable to satisfy its concerns.
- (7) Citizen comments. Recognizing their generally more limited resources, members of the public shall make their comments as specific as possible and are encouraged to comment on methodology needed, additional information, and mitigation measures in the manner indicated in this section.
- (8) An agency shall consider and may respond to comments as the agency deems appropriate; the requirements for responding in a FEIS shall be met (197-11-560).

WAC 197-11-560 FEIS RESPONSE TO COM-MENTS. (1) The lead agency shall prepare a final environmental impact statement whenever a DEIS has been prepared, unless the proposal is withdrawn or indefinitely postponed. The lead agency shall consider comments on the proposal and shall respond by one or more of the means listed below, including its response in the final statement. Possible responses are to:

- (a) Modify alternatives including the proposed action.
- (b) Develop and evaluate alternatives not previously given detailed consideration by the agency.
 - (c) Supplement, improve, or modify the analysis.
 - (d) Make factual corrections.
- (e) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons that support the agency's response and, if appropriate, indicate those circumstances that would trigger agency reappraisal or further response.
- (2) All substantive comments received on the draft statement shall be appended to the final statement or summarized, where comments are repetitive or voluminous, and the summary appended. If a summary of the comments is used, the names of the commenters shall be included (except for petitions).
- (3) In carrying out subsection (1), the lead agency may respond to each comment individually, respond to a group of comments, cross-reference comments and corresponding changes in the EIS, or use other reasonable means to indicate an appropriate response to comments.
- (4) If the lead agency does not receive any comments critical of the scope or content of the DEIS, the lead agency may so state in an updated fact sheet (197-11-440(2)), which shall be circulated under 197-11-460. The FEIS shall consist of the DEIS and updated fact sheet.
- (5) If changes in response to comments are minor and are largely confined to the responses described in subsections (1)(d) and (e) of this section, agencies may prepare and attach an addendum, which shall consist of the comments, the responses, the changes, and an updated fact sheet. The FEIS, consisting of the DEIS and the addendum, shall be issued under 197-11-460, except that only the addendum need be sent to anyone who received the DEIS.

(6) An FEIS shall be issued and circulated under 197-11-460.

NEW SECTION

WAC 197-11-570 CONSULTED AGENCY COSTS TO ASSIST LEAD AGENCY. A consulted agency shall not charge the lead agency for any costs incurred in complying with 197-11-550, including providing relevant data to the lead agency and copying documents for the lead agency. This section shall not prohibit a consulted agency from charging those costs allowed by chapter 42.17 RCW for copying any environmental document requested by an agency other than the lead agency or by an individual or private organization. This section does not prohibit agencies from making interagency agreements on cost or personnel sharing to provide environmental information to each other.

PART SIX – USING EXISTING ENVIRONMENTAL DOCUMENTS

NEW SECTION

WAC 197-11-600 WHEN TO USE EXISTING ENVIRONMENTAL DOCUMENTS. (1) This section contains criteria for determining whether an environmental document must be used unchanged and describes when existing documents may be used to meet all or part of an agency's responsibilities under SEPA.

- (2) An agency may use environmental documents that have previously been prepared in order to evaluate proposed actions, alternatives, or environmental impacts. The proposals may be the same as, or different than, those analyzed in the existing documents.
- (3) Other agencies acting on the same proposal shall use an environmental document unchanged, except in the following cases:
- (a) For DNSs, an agency with jurisdiction is dissatisfied with the DNS, in which case it may assume lead agency status (197-11-340(2)(e) and 197-11-948).
- (b) For DNSs and EISs, preparation of a new threshold determination or supplemental EIS is required if there are:
- (i) Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts (or lack of significant adverse impacts, if a DS is being withdrawn); or
- (ii) New information indicating a proposal's probable significant adverse environmental impacts. (This includes discovery of misrepresentation or lack of material disclosure.) A new threshold determination or SEIS is not required if probable significant adverse environmental impacts are covered by the range of alternatives and impacts analyzed in the existing environmental documents.
- (c) For EISs, the agency concludes that its written comments on the DEIS warrant additional discussion for purposes of its action than that found in the lead agency's FEIS (in which case the agency may prepare a supplemental EIS at its own expense).
- (4) Existing documents may be used for a proposal by employing one or more of the following methods:

- (a) "Adoption", where an agency may use all or part of an existing environmental document to meet its responsibilities under SEPA. Agencies acting on the same proposal for which an environmental document was prepared are not required to adopt the document; or
- (b) "Incorporation by reference", where an agency preparing an environmental document includes all or part of an existing document by reference.
- (c) An addendum, that adds analyses or information about a proposal but does not substantially change the analysis of significant impacts and alternatives in the existing environmental document.
 - (d) Preparation of a SEIS if there are:
- (i) Substantial changes so that the proposal is likely to have significant adverse environmental impacts; or
- (ii) New information indicating a proposal's probable significant adverse environmental impacts.
- (e) If a proposal is substantially similar to one covered in an existing EIS, that EIS may be adopted; additional information may be provided in an addendum or SEIS (see (c) and (d) of this subsection).

- WAC 197-11-610 USE OF NEPA DOCU-MENTS. (1) An agency may adopt any environmental analysis prepared under the National Environmental Policy Act (NEPA) by following 197-11-600 and 197-11-630.
- (2) A NEPA environmental assessment may be adopted to satisfy requirements for a determination of nonsignificance or EIS, if the requirements of 197-11-600 and 197-11-630 are met.
- (3) An agency may adopt a NEPA EIS as a substitute for preparing a SEPA EIS if:
- (a) The requirements of 197-11-600 and 197-11-630 are met (in which case the procedures in Parts Three through Five of these rules for preparing an EIS shall not apply); and
- (b) The federal EIS is not found inadequate: (i) By a court; (ii) by the Council on Environmental Quality (CEQ) (or is at issue in a predecision referral to CEQ) under the NEPA regulations; or (iii) by the administrator of the United States Environmental Protection Agency under section 309 of the Clean Air Act, 42 U.S.C 1857.
- (4) Subsequent use by another agency of a federal EIS, adopted under subsection (3) of this section, for the same (or substantially the same) proposal does not require adoption, unless the criteria in 197-11-600(3) are met.
- (5) If the lead agency has not held a public hearing within its jurisdiction to obtain comments on the adequacy of adopting a federal environmental document as a substitute for preparing a SEPA EIS, a public hearing for such comments shall be held if, within thirty days of circulating its statement of adoption, a written request is received from at least fifty persons who reside within the agency's jurisdiction or are adversely affected by the environmental impact of the proposal. The agency shall reconsider its adoption of the federal document in light of public hearing comments.

NEW SECTION

WAC 197-11-620 SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT—PROCEDURES. (1) An SEIS shall be prepared in the same way as a draft and final EIS (197-11-400 to 197-11-600), except that scoping is optional. The SEIS should not include analysis of actions, alternatives, or impacts that is in the previously prepared EIS.

- (2) The fact sheet and cover letter or memo for the SEIS shall indicate the EIS that is being supplemented.
- (3) Unless the SEPA lead agency wants to prepare the SEIS, an agency with jurisdiction which needs the SEIS for its action shall be responsible for SEIS preparation.

NEW SECTION

WAC 197-11-625 ADDENDA—PROCEDURES. (1) An addendum shall clearly identify the proposal for which it is written and the environmental document it adds to or modifies.

- (2) An agency is not required to prepare a draft addendum.
- (3) An addendum for a DEIS shall be circulated to recipients of the initial DEIS under 197-11-455.
- (4) If an addendum to a final EIS is prepared prior to any agency decision on a proposal, the addendum shall be circulated to the recipients of the final EIS.
- (5) Agencies are encouraged to circulate addenda to interested persons. Unless otherwise provided in these rules, however, agencies are not required to circulate an addendum.

NEW SECTION

WAC 197-11-630 ADOPTION—PROCEDURES. (1) The agency adopting an existing environmental document must independently review the content of the document and determine that it meets the adopting agency's environmental review standards and needs for the proposal. However a document is not required to meet the adopting agency's own procedures for the preparation of environmental documents (such as circulation, commenting, and hearing requirements) to be adopted.

- (2) An agency shall adopt an environmental document by identifying the document and stating why it is being adopted, using the adoption form substantially as in 197-11-965. The adopting agency shall ensure that the adopted document is readily available to agencies and the public by:
- (a) Sending a copy to agencies with jurisdiction that have not received the document, as shown by the distribution list for the adopted document; and
- (b) Placing copies in libraries and other public offices, or by distributing copies to those who request one.
 - (3) When an existing EIS is adopted and:
- (a) A supplemental environmental impact statement or addendum is not being prepared, the agency shall circulate its statement of adoption as follows:

- (i) The agency shall send copies of the adoption notice to the department of ecology, to agencies with jurisdiction, to cities/counties in which the proposal will be implemented, and to local agencies or political subdivisions whose public services would be changed as a result of implementation of the proposal.
- (ii) The agency is encouraged to send the adoption notice to persons or organizations that have expressed an interest in the proposal or are known by the agency to have an interest in the type of proposal being considered, or the lead agency should announce the adoption in agency newsletters or through other means.
- (iii) No action shall be taken on the proposal until seven days after the statement of adoption has been issued. The date of issuance shall be the date the statement of adoption has been sent to the department of ecology and other agencies and is publicly available.
- (b) A SEIS is being prepared, the agency shall include the statement of adoption in the SEIS; or
- (c) An addendum is being prepared, the agency shall include the statement of adoption with the addendum and circulate both as in subsection (3)(a) of this section.
- (4) A copy of the adopted document must accompany the current proposal to the decisionmaker; the statement of adoption may be included.
- (5) If known, the adopting agency shall disclose in its adoption notice when the adopted document or proposal it addresses is the subject of a pending appeal or has been found inadequate on appeal.

WAC 197-11-635 INCORPORATION BY REF-ERENCE—PROCEDURES. (1) Agencies should use existing studies and incorporate material by reference whenever appropriate.

(2) Material incorporated by reference (a) shall be cited, its location identified, and its relevant content briefly described; and (b) shall be made available for public review during applicable comment periods.

NEW SECTION

WAC 197-11-640 COMBINING DOCUMENTS. The SEPA process shall be combined with the existing planning, review, and project approval processes being used by each agency with jurisdiction. When environmental documents are required, they shall accompany a proposal through the existing agency review processes. Any environmental document in compliance with SEPA may be combined with any other agency documents to reduce duplication and paperwork and improve decisionmaking. The page limits in these rules shall be met, or the combined document shall contain, at or near the beginning of the document, a separate summary of environmental considerations, as specified by 197-11-440(4). SEPA page limits need not be met for joint state-federal EISs prepared under both SEPA and NEPA, in which case the NEPA page restrictions (40 CFR 1502.7) shall apply.

PART SEVEN – SEPA AND AGENCY DECISIONS

NEW SECTION

WAC 197-11-650 PURPOSE OF THIS PART. The purpose of this Part is to:

- (1) Ensure the use of concise, high quality environmental documents and information in making decisions.
- (2) Integrate the SEPA process with other laws and decisions.
- (3) Encourage actions that preserve and enhance environmental quality, consistent with other essential considerations of state policy.
- (4) Provide basic, uniform principles for the exercise of substantive authority and appeals under SEPA.

NEW SECTION

WAC 197-11-655 IMPLEMENTATION. (1) See RCW 43.21C.020, 43.21C.030(1), 43.21C.060, 43.21C-075, and 43.21C.080.

- (2) Relevant environmental documents, comments, and responses shall accompany proposals through existing agency review processes, as determined by agency practice and procedure, so that agency officials use them in making decisions.
- (3) When a decisionmaker considers a final decision on a proposal:
- (a) The alternatives in the relevant environmental documents shall be considered.
- (b) The range of alternative courses of action considered by decisionmakers shall be within the range of alternatives discussed in the relevant environmental documents. However, mitigation measures adopted need not be identical to those discussed in the environmental document.
- (c) If information about alternatives is contained in another decision document which accompanies the relevant environmental documents to the decisionmaker, agencies are encouraged to make that information available to the public before the decision is made.

NEW SECTION

WAC 197-11-660 SUBSTANTIVE AUTHORITY AND MITIGATION. (1) Any governmental action on public or private proposals that are not exempt may be conditioned or denied under SEPA to mitigate the environmental impact subject to the following limitations:

- (a) Mitigation measures or denials shall be based on policies, plans, rules, or regulations formally designated by the agency (or appropriate legislative body, in the case of local government) as a basis for the exercise of substantive authority and in effect when the DNS or DEIS is issued.
- (b) Mitigation measures shall be related to specific, adverse environmental impacts clearly identified in an environmental document on the proposal and shall be stated in writing by the decisionmaker. The decisionmaker shall cite the agency SEPA policy that is the basis of any condition or denial under this chapter (for proposals of applicants). After its decision, each agency shall make available to the public a document that states the decision. The document shall state the mitigation measures, if any, that will be implemented as part of the

decision, including any monitoring of environmental impacts. Such a document may be the license itself, or may be combined with other agency documents, or may reference relevant portions of environmental documents.

(c) Mitigation measures shall be reasonable and ca-

pable of being accomplished.

- (d) Responsibility for implementing mitigation measures may be imposed upon an applicant only to the extent attributable to the identified adverse impacts of its proposal. Voluntary additional mitigation may occur.
- (e) Before requiring mitigation measures, agencies shall consider whether local, state, or federal requirements and enforcement would mitigate an identified significant impact.
- (f) To deny a proposal under SEPA, an agency must find that:
- (i) The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and
- (ii) Reasonable mitigation measures are insufficient to mitigate the identified impact.
- (2) Decisionmakers should judge whether possible mitigation measures are likely to protect or enhance environmental quality. EISs should briefly indicate the intended environmental benefits of mitigation measures for significant impacts (197-11-440(6)). EISs are not required to analyze in detail the environmental impacts of mitigation measures, unless the mitigation measures:
- (a) Represent substantial changes in the proposal so that the proposal is likely to have significant adverse environmental impacts, or involve significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; and
- (b) Will not be analyzed in a subsequent environmental document prior to their implementation.
- (3) Agencies shall prepare a document that contains agency SEPA policies (197-11-902), so that applicants and members of the public know what these policies are. This document shall include, or reference by citation, the regulations, plans, or codes formally designated under this section and RCW 43.21C.060 as possible bases for conditioning or denying proposals. If only a portion of a regulation, plan, or code is designated, the document shall identify that portion. This document (and any documents referenced in it) shall be readily available to the public and shall be available to applicants prior to preparing a draft EIS.

NEW SECTION

WAC 197-11-680 APPEALS. (1) Introduction. Appeals provisions in SEPA are found in RCW 43.21C.060, 43.21C.075 and 43.21C.080. These rules attempt to construe and interpret the statutory provisions. In the event a court determines that these rules are inconsistent with statutory provisions, or with the framework and policy of SEPA, the statute will control. Persons considering either administrative or judicial appeal of any decision which involves SEPA at all are advised to read the statutory sections cited above.

- (2) Appeal to local legislative body. RCW 43.21C.060 allows an appeal to a local legislative body of any decision by a local nonelected official conditioning or denying a proposal under authority of SEPA. Agencies may establish procedures for such an appeal, or may eliminate such appeals altogether, by rule, ordinance or resolution.
 - (3) Agency administrative appeal procedures.
- (a) Agencies may provide for an administrative appeal of determinations relating to SEPA in their agency SEPA procedures. If so, the procedures must comply with the following:
- (i) The agency must specify by rule, ordinance, or resolution that the appeals procedure is available.
- (ii) Appeal of the intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) shall not be allowed.
- (iii) Appeals on SEPA procedures shall be limited to review of a final threshold determination and final EIS. The appeal of a final threshold determination may occur prior to an agency's final decision on a proposed action.
- (iv) An agency shall provide for only one administrative appeal of a threshold determination or of the adequacy of an EIS; successive administrative appeals on these issues within the same agency are not allowed. This limitation does not apply to appeals to a local legislative body under RCW 43.21C.060 (or another state statute) or to administrative appeals before another
- (v) If the agency has made a decision on a proposed action, the appeal shall consolidate any allowed appeals of procedural and substantive determinations under SEPA. For example, an appeal of the adequacy of an EIS must be consolidated with an appeal of the agency's decision on the proposed action, if both appeals are allowed in agency procedures.
- (vi) Agencies shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.
- (b) Agencies providing for administrative appeals shall provide for a record as required by RCW 43.21C.075(3)(c).
- (c) If an agency provides an administrative appeal procedure, that procedure must be used before anyone may initiate judicial review of any SEPA issue that could have been reviewed under the agency procedures.
 - (4) Judicial appeals.
- (a) SEPA authorizes judicial appeals of both procedural and substantive compliance with SEPA.
- (b) When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA (SEPA issues) and those which do not (non-SEPA issues). RCW 43.21C.075 establishes time limits for raising SEPA issues, but says that existing statutes of limitations control the appeal of non-SEPA issues. The statute contemplates a single lawsuit, but allows for the SEPA and non-SEPA portions of that lawsuit to be filed at different times.
- (c) If there is a time limit established by statute or ordinance for appealing the underlying governmental action, then appeals (or portions thereof) raising SEPA issues must be filed within thirty days after the agency

gives official notice (see subsection (5) of this section for content of official notice).

- (d) In any instance where subsection (c) of this subsection allows the SEPA portion of an appeal to be filed after the time limit established by statute or ordinance for appealing the underlying governmental action, some judicial action must be filed within the time set by statute or ordinance. That action may be later amended to raise SEPA issues within thirty days after the agency gives official notice (see subsection (5) of this section). In addition, where SEPA issues were first raised during an administrative appeal, any person desiring to raise SEPA issues by judicial appeal must submit a notice of intent to do so with the responsible official of the acting agency within the time limit set by statute or ordinance for appealing the underlying governmental action.
- (e) The notice of action procedures of RCW 43.21C.080 may still be used. If this procedure is used, then the time limits for judicial appeal specified in RCW 43.21C.080 shall apply, unless there is a time limit established by statute or ordinance for appealing the underlying governmental action. If so, the time limit for appeal of SEPA issues shall be within thirty days after the agency gives official notice (see subsection (5) of this section). If the proposal requires more than one governmental decision that will be supported by the same SEPA documents, then RCW 43.21C.080 still only allows one judicial appeal of procedural compliance with SEPA, which must be commenced within the applicable time to appeal the first governmental decision.
- (f) If the time limit established by statute or ordinance for appealing the underlying governmental action is less than fifteen days, then the notice of action in RCW 43.21C.080(1) may be given by publishing once within that shorter time period, in a newspaper of general circulation in the area where the property that is the subject of the action is located, and meeting the other requirements of RCW 43.21C.080.
- (g) If there is no time limit established by statute or ordinance for appeal, and the notice of action provisions are not used, then SEPA provides no time limit for judicial appeals. Appeal times may still be limited, however, by general statutes of limitation or the common law.
- (h) For the purposes of this subsection, "a time limit established by statute or ordinance" does not include time limits established by the general statutes of limitation in chapter 4.16 RCW.
- (i) This subsection does not apply to petitions for judicial review of agency decisions in contested cases, or to petitions for a declaratory judgment on the validity of a rule, both of which are governed exclusively by the Administrative Procedure Act, chapter 34.04 RCW.
- (5) Official notice of the date and place for commencing an appeal.
- (a) Official notice of the date and place for commencing an appeal must be given if there is a time limit established by statute or ordinance for commencing an appeal of the underlying governmental action. The notice shall include:
- (i) The time limit for commencing appeal of the underlying governmental action and the statute or ordinance establishing the time limit; and

- (ii) The time for appealing SEPA issues (thirty days after notice); and
- (iii) A statement that a notice of intent is required, if a notice is required under subsection (4)(d) of this section, and instructions on where to send the notice and by what date; and
 - (iv) Where an appeal may be filed.
 - (b) Notice is given by:
- (i) Delivery of written notice to the applicant, all parties to any administrative appeal, and all persons who have requested notice of decisions with respect to the particular proposal in question; and
- (ii) Following the agency's normal methods of notice for the type of governmental action taken.
- (c) Written notice containing the information required by subsection (5)(a) of this section may be appended to the permit, decision documents, or SEPA compliance documents or may be printed separately.
- (d) Official notices required by this subparagraph shall not be given prior to final agency action.

PART EIGHT - DEFINITIONS

NEW SECTION

WAC 197-11-700 DEFINITIONS. (1) The terms used in these rules shall be uniform throughout the state as applied to SEPA (197-11-040). Agencies may add to certain of these definitions in their procedures, to help explain how they carry out SEPA, but shall not change these definitions (197-11-906).

- (2) Unless the context clearly requires otherwise:
- (a) Use of the singular shall include the plural and conversely.
- (b) "Preparation" of environmental documents refers to preparing or supervising the preparation of documents, including issuing, filing, printing, circulating, and related requirements.
 - (c) "Impact" refers to environmental impact.
 - (d) "Permit" means "license" (197-11-760).
- (e) "Commenting" includes but is not synonymous with "consultation" (Part Five).
- (f) "Environmental cost" refers to adverse environmental impact and may or may not be quantified.
- (g) "EIS" refers to draft, final, and supplemental EISs (197-11-405 and 197-11-738).
- (h) "Under" includes pursuant to, subject to, required by, established by, in accordance with, and similar expressions of legislative or administrative authorization or direction.
 - (3) In these rules:
 - (a) "Shall" is mandatory.
- (b) "May" is optional and permissive and does not impose a requirement.
 - (c) "Include" means "include but not limited to."
 - (4) The following terms are synonymous:
 - (a) Effect and impact (197-11-752).
- (b) Environment and environmental quality (197-11-740).
- (c) Major and significant (197-11-764 and 197-11-794).
 - (d) Proposal and proposed action (197-11-784).

(e) Probable and likely (197-11-782).

NEW SECTION

WAC 197-11-702 ACT. "Act" means the State Environmental Policy Act of 1971, chapter 43.21C RCW, as amended, which is also referred to as "SEPA".

NEW SECTION

WAC 197-11-704 ACTION. (1) "Actions" include, as further specified below:

- (a) New and continuing activities (including projects and programs) entirely or partly financed, assisted, conducted, regulated, licensed, or approved by agencies;
- (b) New or revised agency rules, regulations, plans, policies, or procedures; and
 - (c) Legislative proposals.
 - (2) Actions fall within one of two categories:
- (a) Project actions. A project action involves a decision on a specific project, such as a construction or management activity located in a defined geographic area. Projects include and are limited to agency decisions to:
- (i) License, fund, or undertake any activity that will directly modify the environment, whether the activity will be conducted by the agency, an applicant, or under contract.
- (ii) Purchase, sell, lease, transfer, or exchange natural resources, including publicly owned land, whether or not the environment is directly modified.
- (b) Nonproject actions. Nonproject actions involve decisions on policies, plans, or programs.
- (i) The adoption or amendment of legislation, ordinances, rules, or regulations that contain standards controlling use or modification of the environment;
- (ii) The adoption or amendment of comprehensive land use plans or zoning ordinances;
- (iii) The adoption of any policy, plan, or program that will govern the development of a series of connected actions (197-11-060), but not including any policy, plan, or program for which approval must be obtained from any federal agency prior to implementation;
- (iv) Creation of a district or annexations to any city, town or district;
 - (v) Capital budgets; and
 - (vi) Road, street, and highway plans.
- (3) "Actions" do not include the activities listed above when an agency is not involved. Actions do not include bringing judicial or administrative civil or criminal enforcement actions (certain categorical exemptions in Part Nine identify in more detail governmental activities that would not have any environmental impacts and for which SEPA review is not required).

NEW SECTION

WAC 197-11-706 ADDENDUM. "Addendum" means an environmental document used to provide additional information or analysis that does not substantially change the analysis of significant impacts and alternatives in the existing environmental document. The term does not include supplemental EISs. An addendum may be used at any time during the SEPA process.

NEW SECTION

WAC 197-11-708 ADOPTION. "Adoption" means an agency's use of all or part of an existing environmental document to meet all or part of the agency's responsibilities under SEPA to prepare an EIS or other environmental document.

NEW SECTION

WAC 197-11-710 AFFECTED TRIBE. Affected tribe or "treaty tribe" means any Indian tribe, band, nation or community in the state of Washington, that is federally recognized by the United States Secretary of the Interior and that will or may be affected by the proposal.

NEW SECTION

WAC 197-11-712 AFFECTING. "Affecting" means having, or may be having, an effect on (see 197-11-752 on impacts). For purposes of deciding whether an EIS is required and what the EIS must cover, "affecting" refers to having probable, significant adverse environmental impacts (RCW 43.21C.031 and 43.21C.110(1)(c)).

NEW SECTION

WAC 197-11-714 AGENCY. (1) "Agency" means any state or local governmental body, board, commission, department, or officer authorized to make law, hear contested cases, or otherwise take the actions stated in 197-11-704, except the judiciary and state legislature. An agency is any state agency (197-11-796) or local agency (197-11-762).

- (2) "Agency with environmental expertise" means an agency with special expertise on the environmental impacts involved in a proposal or alternative significantly affecting the environment. These agencies are listed in 197-11-920; the list may be expanded in agency procedures (197-11-906). The appropriate agencies must be consulted in the environmental impact statement process, as required by 197-11-502.
- (3) "Agency with jurisdiction" means an agency with authority to approve, veto, or finance all or part of a nonexempt proposal (or part of a proposal). The term does not include an agency authorized to adopt rules or standards of general applicability that could apply to a proposal, when no license or approval is required from the agency for the specific proposal. The term also does not include a local, state, or federal agency involved in approving a grant or loan, that serves only as a conduit between the primary administering agency and the recipient of the grant or loan. Federal agencies with jurisdiction are those from which a license or funding is sought or required.
- (4) If a specific agency has been named in these rules, and the functions of that agency have changed or been transferred to another agency, the term shall mean any successor agency.
- (5) For those proposals requiring a hydraulic project approval under RCW 75.20.100, both the department of

game and the department of fisheries shall be considered agencies with jurisdiction.

NEW SECTION

WAC 197-11-716 APPLICANT. "Applicant" means any person or entity, including an agency, applying for a license from an agency. Application means a request for a license.

NEW SECTION

WAC 197-11-718 BUILT ENVIRONMENT. "Built environment" means the elements of the environment as specified by RCW 43.21C.110(1)(f) and 197-11-444(2), which are generally built or made by people as contrasted with natural processes.

NEW SECTION

WAC 197-11-720 CATEGORICAL EXEMPTION. "Categorical exemption" means a type of action, specified in these rules, which does not significantly affect the environment (RCW 43.21C.110(1)(a)); categorical exemptions are found in Part Nine of these rules. Neither a threshold determination nor any environmental document, including an environmental checklist or environmental impact statement, is required for any categorically exempt action (RCW 43.21C.031). These rules provide for those circumstances in which a specific action that would fit within a categorical exemption shall not be considered categorically exempt (197-11-305).

NEW SECTION

WAC 197-11-722 CONSOLIDATED APPEAL. "Consolidated appeal" means the procedure requiring a person to file an agency appeal challenging both procedural and substantive compliance with SEPA at the same time, as provided under RCW 43.21C.075(3)(b) and the exceptions therein. If an agency does not have an appeal procedure for challenging either the agency's procedural or its substantive SEPA determinations, the appeal cannot be consolidated prior to any judicial review. The requirement for a consolidated appeal does not preclude agencies from bifurcating appeal proceedings and allowing different agency officials to hear different aspects of the appeal. (197-11-680).

NEW SECTION

WAC 197-11-724 CONSULTED AGENCY. "Consulted agency" means any agency with jurisdiction or expertise that is requested by the lead agency to provide information during the SEPA process.

NEW SECTION

WAC 197-11-726 COST-BENEFIT ANALYSIS. "Cost-benefit analysis" means a quantified comparison of costs and benefits generally expressed in monetary or numerical terms. It is not synonymous with the weighing or balancing of environmental and other impacts or benefits of a proposal.

NEW SECTION

WAC 197-11-728 COUNTY/CITY. "County/city" means a county, city, or town. In this chapter, duties and powers are assigned to a county, city, or town as a unit. The delegation of responsibilities among the various departments of a county, city, or town is left to the legislative or charter authority of the individual counties, cities, or towns.

NEW SECTION

WAC 197-11-730 DECISIONMAKER. "Decisionmaker" means the agency official or officials who make the agency's decision on a proposal. The decisionmaker and responsible official are not necessarily synonymous, depending on the agency and its SEPA procedures (197-11-906 and 197-11-910).

NEW SECTION

WAC 197-11-732 DEPARTMENT. "Department" means the Washington state department of ecology.

NEW SECTION

WAC 197-11-734 DETERMINATION OF NONSIGNIFICANCE (DNS). "Determination of non-significance" (DNS) means the written decision by the responsible official of the lead agency that a proposal is not likely to have a significant adverse environmental impact, and therefore an EIS is not required (197-11-310 and 197-11-340). The DNS form is in 197-11-970.

NEW SECTION

WAC 197-11-736 DETERMINATION OF SIGNIFICANCE (DS). "Determination of significance" (DS) means the written decision by the responsible official of the lead agency that a proposal is likely to have a significant adverse environmental impact, and therefore an EIS is required (197-11-310 and 197-11-360). The DS form is in 197-11-980 and must be used substantially in that form.

NEW SECTION

WAC 197-11-738 EIS. "EIS" means environmental impact statement. The term "detailed statement" in RCW 43.21C.030(2)(c) refers to a final EIS. The term "EIS" as used in these rules refers to draft, final, or supplemental EISs (197-11-405).

NEW SECTION

WAC 197-11-740 ENVIRONMENT. "Environment" means, and is limited to, those elements listed in 197-11-444, as required by RCW 43.21C.110(1)(f). Environment and environmental quality refer to the state of the environment and are synonymous as used in these rules and refer basically to physical environmental quality.

WAC 197-11-742 ENVIRONMENTAL CHECKLIST. "Environmental checklist" means the form in 197-11-960. Rules for its use are in 197-11-315.

NEW SECTION

WAC 197-11-744 ENVIRONMENTAL DOCU-MENT. "Environmental document" means any written public document prepared under this chapter. Under SEPA, the terms environmental analysis, environmental study, environmental report, and environmental assessment do not have specialized meanings and do not refer to particular environmental documents (unlike various other state or federal environmental impact procedures).

NEW SECTION

WAC 197-11-746 ENVIRONMENTAL RE-VIEW. "Environmental review" means the consideration of environmental factors as required by SEPA. The "environmental review process" is the procedure used by agencies and others under SEPA for giving appropriate consideration to the environment in agency decisionmaking.

NEW SECTION

WAC 197-11-748 ENVIRONMENTALLY SEN-SITIVE AREA. "Environmentally sensitive area" means an area designated and mapped by a county/city under 197-11-908. Certain categorical exemptions do not apply within environmentally sensitive areas (197-11-305, 197-11-908, and Part Nine of these rules).

NEW SECTION

WAC 197-11-750 EXPANDED SCOPING. "Expanded scoping" is an optional process that may be used by agencies to go beyond minimum scoping requirements.

NEW SECTION

WAC 197-11-752 IMPACTS. "Impacts" are the effects or consequences of actions. Environmental impacts are effects upon the elements of the environment listed in 197-11-444.

NEW SECTION

WAC 197-11-754 INCORPORATION BY REF-ERENCE. "Incorporation by reference" means the inclusion of all or part of any existing document in an agency's environmental documentation by reference (197-11-600 and 197-11-635).

NEW SECTION

WAC 197-11-756 LANDS COVERED BY WATER. "Lands covered by water" means lands underlying the water areas of the state below the ordinary high water mark, including salt waters, tidal waters, estuarine waters, natural water courses, lakes, ponds, artificially

impounded waters, marshes, and swamps. Certain categorical exemptions do not apply to lands covered by water, as specified in Part Nine.

NEW SECTION

WAC 197-11-758 LEAD AGENCY. "Lead agency" means the agency with the main responsibility for complying with SEPA's procedural requirements (197-11-050 and 197-11-922). The procedures for determining lead agencies are in Part Ten of these rules. "Lead agency" may be read as "responsible official" (197-11-788 and 197-11-910) unless the context clearly requires otherwise. Depending on the agency and the type of proposal, for example, there may be a difference between the lead agency's responsible official, who is at a minimum responsible for procedural determinations (such as 197-11-330, 197-11-455, 197-11-460) and its decisionmaker, who is at a minimum responsible for substantive determinations (such as 197-11-448, 197-11-655, and 197-11-660).

NEW SECTION

WAC 197-11-760 LICENSE. "License" means any form of written permission given to any person, organization, or agency to engage in any activity, as required by law or agency rule. A license includes all or part of an agency permit, certificate, approval, registration, charter, or plat approvals or rezones to facilitate a particular proposal. The term does not include a license required solely for revenue purposes.

NEW SECTION

WAC 197-11-762 LOCAL AGENCY. "Local agency" or "local government" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties and their legislative bodies. The term encompasses but does not refer specifically to the departments within a city or county.

NEW SECTION

WAC 197-11-764 MAJOR ACTION. "Major action" means an action that is likely to have significant adverse environmental impacts. "Major" reinforces but does not have a meaning independent of "significantly" (197-11-794).

NEW SECTION

WAC 197-11-766 MITIGATED DNS. "Mitigated DNS" means a DNS that includes mitigation measures and is issued as a result of the process specified in 197-11-350.

NEW SECTION

WAC 197-11-768 MITIGATION. "Mitigation" means:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action;

- (2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action:
- (5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
- (6) Monitoring the impact and taking appropriate corrective measures.

WAC 197-11-770 NATURAL ENVIRONMENT. "Natural environment" means those aspects of the environment contained in 197-11-444(1), frequently referred to as natural elements, or resources, such as earth, air, water, wildlife, and energy.

NEW SECTION

WAC 197-11-772 NEPA. "NEPA" means the National Environmental Policy Act of 1969 (42 USCA 4321 et seq.; P.L. 91-190), that is like SEPA at the federal level. The federal NEPA regulations are located at 40 CFR 1500 et seq.

NEW SECTION

WAC 197-11-774 NONPROJECT. "Nonproject" means actions which are different or broader than a single site specific project, such as plans, policies, and programs (197-11-704).

NEW SECTION

WAC 197-11-776 PHASED REVIEW. "Phased review" means the coverage of general matters in broader environmental documents, with subsequent narrower documents concentrating solely on the issues specific to the later analysis (197-11-060(5)). Phased review may be used for a single proposal or EIS (197-11-060).

NEW SECTION

WAC 197-11-778 PREPARATION. "Preparation" of an environmental document means preparing or supervising the preparation of documents, including issuing, filing, printing, circulating, and related requirements (see 197-11-700(2)).

NEW SECTION

WAC 197-11-780 PRIVATE PROJECT. "Private project" means any proposal primarily initiated or sponsored by an individual or entity other than an agency.

NEW SECTION

WAC 197-11-782 PROBABLE. "Probable" means likely or reasonably likely to occur, as in "a reasonable

probability of more than a moderate effect on the quality of the environment" (see 197-11-794). Probable is used to distinguish likely impacts from those that merely have a possibility of occurring, but are remote or speculative. This is not meant as a strict statistical probability test.

NEW SECTION

WAC 197-11-784 PROPOSAL, "Proposal" means a proposed action. A proposal includes both actions and regulatory decisions of agencies as well as any actions proposed by applicants. A proposal exists at that stage in the development of an action when an agency is presented with an application, or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and the environmental effects can be meaningfully evaluated. (See 197-11-055 and 197-11-060(3).) A proposal may therefore be a particular or preferred course of action or several alternatives. For this reason, these rules use the phrase "alternatives including the proposed action." The term "proposal" may therefore include "other reasonable courses of action," if there is no preferred alternative and if it is appropriate to do so in the particular context.

NEW SECTION

WAC 197-11-786 REASONABLE ALTERNATIVE. "Reasonable alternative" means an action that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation. Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts, either directly, or indirectly through requirement of mitigation measures. (See 197-11-440(5) and 197-11-660.) Also see the definition of "scope" for the three types of alternatives to be analyzed in EISs (197-11-792).

NEW SECTION

WAC 197-11-788 RESPONSIBLE OFFICIAL. "Responsible official" means that officer or officers, committee, department, or section of the lead agency designated by agency SEPA procedures to undertake its procedural responsibilities as lead agency (197-11-910).

NEW SECTION

WAC 197-11-790 SEPA. "SEPA" means the State Environmental Policy Act of 1971 (chapter 43.21C RCW), which is also referred to as the act. The "SEPA process" means all measures necessary for compliance with the act's requirements.

NEW SECTION

WAC 197-11-792 SCOPE. (1) "Scope" means the range of proposed actions, alternatives, and impacts to be analyzed in an environmental document (197-11-060(2)).

- (2) To determine the scope of environmental impact statements, agencies consider three types of actions, three types of impacts, and three types of alternatives.
 - (a) Actions may be:

- (i) Single (a specific action which is not related to other proposals or parts of proposals);
- (ii) Connected (proposals or parts of proposals which are closely related under 197-11-060(3) or 197-11-305(1)); or
- (iii) Similar (proposals that have common aspects and may be analyzed together under 197-11-060(3)).
 - (b) Alternatives may be:
 - (i) No action;
 - (ii) Other reasonable courses of action; or
 - (iii) Mitigation measures (not in the proposed action).
 - (c) Impacts may be:
 - (i) Direct;
 - (ii) Indirect; or
 - (iii) Cumulative.
- (3) 197-11-060 provides general rules for the content of any environmental review under SEPA; Part Four and 197-11-440 provide specific rules for the content of EISs. The scope of an individual statement may depend on its relationship with other EISs or on phased review.

WAC 197-11-793 SCOPING. "Scoping" means determining the range of proposed actions, alternatives, and impacts to be discussed in an EIS. Because an EIS is required to analyze significant environmental impacts only, scoping is intended to identify and narrow the EIS to the significant issues. The required scoping process (197-11-408) provides interagency and public notice of a DS, or equivalent notification, and opportunity to comment. The lead agency has the option of expanding the scoping process (197-11-410), but shall not be required to do so. Scoping is used to encourage cooperation and early resolution of potential conflicts, to improve decisions, and to reduce paperwork and delay.

NEW SECTION

WAC 197-11-794 SIGNIFICANT. (1) "Significant" as used in SEPA means a reasonable likelihood of more than a moderate adverse impact on environmental quality.

(2) Significance involves context and intensity (197–11–330) and does not lend itself to a formula or quantifiable test. The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact.

The severity of an impact should be weighed along with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred.

(3) 197-11-330 specifies a process, including criteria and procedures, for determining whether a proposal is likely to have a significant adverse environmental impact.

NEW SECTION

WAC 197-11-796 STATE AGENCY. "State agency" means any state board, commission, department, or officer, including state universities, colleges, and community colleges, that is authorized by law to make

rules, hear contested cases, or otherwise take the actions stated in 197-11-704, except the judiciary and state legislature.

NEW SECTION

WAC 197-11-797 THRESHOLD DETERMINATION. "Threshold determination" means the decision by the responsible official of the lead agency whether or not an EIS is required for a proposal that is not categorically exempt (197-11-310 and 197-11-330(1)(b)).

NEW SECTION

WAC 197-11-799 UNDERLYING GOVERN-MENTAL ACTION. "Underlying government action" means the governmental action, such as zoning or permit approvals, that is the subject of SEPA compliance.

PART NINE - CATEGORICAL EXEMPTIONS

NEW SECTION

WAC 197-11-800 CATEGORICAL EXEMPTIONS. The proposed actions contained in Part Nine are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in 197-11-305.

- (1) Minor new construction-Flexible thresholds.
- (a) The exemptions in this subsection apply to all licenses required to undertake the construction in question, except when a rezone or any license governing emissions to the air or discharges to water is required. To be exempt under this subsection, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in (b) of this subsection shall control, unless the city/county in which the project is located establishes an exempt level under (c) of this subsection. If the proposal is located in more than one city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency.
- (b) The following types of construction shall be exempt, except when undertaken wholly or partly on lands covered by water:
- (i) The construction or location of any residential structures of four dwelling units.
- (ii) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

(iii) The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for twenty automobiles.

- (iv) The construction of a parking lot designed for twenty automobiles.
- (v) Any landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a class I, II, or III

forest practice under RCW 76.09.050 or regulations thereunder.

- (c) Cities, towns or counties may raise the exempt levels to the maximum specified below by implementing ordinance or resolution. Such levels shall be specified in the agency's SEPA procedures (197–11–904) and sent to the department of ecology. A newly established exempt level shall be supported by local conditions, including zoning or other land use plans or regulations. An agency may adopt a system of several exempt levels (such as different levels for different geographic areas). The maximum exempt level for the exemptions in (1)(b) of this section shall be, respectively:
 - (i) 20 dwelling units.
 - (ii) 30,000 square feet.
 - (iii) 12,000 square feet; 40 automobiles.
 - (iv) 40 automobiles.
 - (v) 500 cubic yards.
- (2) Other minor new construction. The following types of construction shall be exempt except where undertaken wholly or in part on lands covered by water (unless specifically exempted in this subsection); the exemptions provided by this section shall apply to all licenses required to undertake the construction in question, except where a rezone or any license governing emissions to the air or discharges to water is required:
- (a) The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles.
- (b) The construction and/or installation of commercial on-premise signs, and public signs and signals.
- (c) The construction or installation of minor road and street improvements such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators, transportation corridor landscaping (including the application of Washington state department of agriculture approved herbicides by licensed personnel for right-ofway weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights-of-way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new rightof-way is required, adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new rightof-way is required, channelization and elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation, installation of catch basins and culverts, and reconstruction of existing roadbed (existing curb-to-curb in urban locations), including adding or widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not including additional automobile lanes.
- (d) Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections (1) and (2) of this section, as well as fencing and the construction of small structures and minor facilities accessory thereto.

- (e) Additions or modifications to or replacement of any building or facility exempted by subsections (1) and (2) of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class.
- (f) The demolition of any structure or facility, the construction of which would be exempted by subsections (1) and (2) of this section, except for structures or facilities with recognized historical significance.
- (g) The installation of impervious underground tanks, having a capacity of 10,000 gallons or less.
 - (h) The vacation of streets or roads.
- (i) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.
- (j) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.
- (3) Repair, remodeling and maintenance activities. The following activities shall be categorically exempt except: The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:
 - (a) Dredging;
- (b) Reconstruction/maintenance of groins and similar shoreline protection structures; or
- (c) Replacement of utility cables that must be buried under the surface of the bedlands. Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.
- (4) Water rights. The following appropriations of water shall be exempt, the exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit required for a normal diversion or intake structure, well and pumphouse reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation:
- (a) Appropriations of fifty cubic feet per second or less of surface water for irrigation purposes, when done without a government subsidy.
- (b) Appropriations of one cubic foot per second or less of surface water, or of 2,250 gallons per minute or less of ground water, for any purpose.
- (5) Purchase or sale of real property. The following real property transactions by an agency shall be exempt:
- (a) The purchase or acquisition of any right to real property.
- (b) The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to an authorized public use.
- (c) The lease of real property when the use of the property for the term of the lease will remain essentially

the same as the existing use, or when the use under the lease is otherwise exempted by this chapter.

- (6) Minor land use decisions. The following land use decisions shall be exempt:
- (a) Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060, but not including further short subdivisions or short platting within a plat or subdivision previously exempted under this subsection.
- (b) Granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.
- (c) Classifications of land for current use taxation under chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW.
- (7) School closures. The adoption and implementation of a plan, program, or decision for the closure of a school or schools shall be exempt. Demolition, physical modification or change of a facility from a school use shall not be exempt under this subsection.
- (8) Open burning. Opening burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning shall not be exempt.
- (9) Variances under clean air act. The granting of variances under RCW 70.94.181 extending applicable air pollution control requirements for one year or less shall be exempt.
- (10) Water quality certifications. The granting or denial of water quality certifications under the federal clean water act (Federal Water Pollution Control Act Amendments of 1972, 33 USC 1341) shall be exempt.
- (11) Activities of the state legislature. All actions of the state legislature are exempted. This subsection does not exempt the proposing of legislation by an agency (197-11-704).
 - (12) Judicial activity. The following shall be exempt:
 - (a) All adjudicatory actions of the judicial branch.
- (b) Any quasi-judicial action of any agency if such action consists of the review of a prior administrative or legislative decision. Decisions resulting from contested cases or other hearing processes conducted prior to the first decision on a proposal or upon any application for a rezone, conditional use permit or other similar permit not otherwise exempted by this chapter, are not exempted by this subsection.
- (13) Enforcement and inspections. The following enforcement and inspection activities shall be exempt:
- (a) All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection.
- (b) All inspections conducted by an agency of either private or public property for any purpose.
- (c) All activities of fire departments and law enforcement agencies except physical construction activity.

- (d) Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides and chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection.
- (e) Any suspension or revocation of a license for any purpose.
- (14) Business and other regulatory licenses. The following business and other regulatory licenses are exempt:
- (a) All licenses to undertake an occupation, trade or profession.
- (b) All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits.
- (c) All licenses to operate or engage in amusement devices and rides and entertainment activities, including but not limited to cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction of any of the above.
- (d) All licenses to operate or engage in charitable or retail sales and service activities, including but not limited to peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers.
- (e) All licenses for private security services, including but not limited to detective agencies, merchant and/or residential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services.
- (f) All licenses for vehicles for-hire and other vehicle related activities, including but not limited to taxicabs, ambulances, and tow trucks: PROVIDED, That regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection.
- (g) All licenses for food or drink services, sales, and distribution, including but not limited to restaurants, liquor, and meat.
- (h) All animal control licenses, including but not limited to pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection.
- (i) The renewal or reissuance of a license regulating any present activity or structure so long as no material changes are involved.
- (15) Activities of agencies. The following administrative, fiscal and personnel activities of agencies shall be exempt:
- (a) The procurement and distribution of general supplies, equipment and services authorized or necessitated by previously approved functions or programs.
 - (b) The assessment and collection of taxes.
- (c) The adoption of all budgets and agency requests for appropriation: PROVIDED, That if such adoption

includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection.

- (d) The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals.
 - (2) The review and payment of vouchers and claims.
- (f) The establishment and collection of liens and service billings.
- (g) All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force.
- (h) All agency organization, reorganization, internal operational planning or coordination of plans or functions.
- (i) Adoptions or approvals of utility, transportation and solid waste disposal rates.
- (j) The activities of school districts pursuant to desegregation plans or programs; however, construction of real property transactions or the adoption of any policy, plan or program for such construction of real property transaction shall not be considered exempt under this subsection (see also 197-11-800(7)).
- (16) Financial assistance grants. The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project. This exemption includes agencies taking nonproject actions that are necessary to apply for federal or other financial assistance.
- (17) Local improvement districts. The formation of local improvement districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under 197-11-800 and 197-11-880.
- (18) Information collection and research. Basic data collection, research, resource evaluation, requests for proposals (RFPs), and the conceptual planning of proposals shall be exempt. These may be strictly for information-gathering, or as part of a study leading to a proposal that has not yet been approved, adopted or funded; this exemption does not include any agency action that commits the agency to proceed with such a proposal. (Also see 197-11-070.)
- (19) Acceptance of filings. The acceptance by an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.
- (20) Procedural actions. The proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be exempt. Agency SEPA procedures shall be exempt.
- (21) Building codes. The adoption by ordinance of all codes as required by the state building code act (chapter 19.27 RCW).
- (22) Adoption of noise ordinances. The adoption by counties/cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not

- differ from regulations adopted by the department of ecology under chapter 70.107 RCW. When a county/city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations (and thus requires approval of the department of ecology under RCW 70.107.060(4)), SEPA compliance may be limited to those items which differ from state regulations.
- (23) Review and comment actions. Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.
- (24) Utilities. The utility-related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class.
- (a) All communications lines, including cable TV, but not including communication towers or relay stations.
- (b) All storm water, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines eight inches or less in diameter.
- (c) All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; and the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (more than 55,000 volts); and the undergrounding of all electric facilities, lines, equipment or appurtenances.
- (d) All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups.
- (e) All developments within the confines of any existing electric substation, reservoir, pump station or well: PROVIDED, That additional appropriations of water are not exempted by this subsection.
- (f) Periodic use of chemical or mechanical means to maintain a utility or transportation right of way in its design condition: PROVIDED, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.
- (g) All grants of rights of way by agencies to utilities for use for distribution (as opposed to transmission) purposes.
 - (h) All grants of franchises by agencies to utilities.
 - (i) All disposals of rights of way by utilities.
- (25) Natural resources management. In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:
- (a) All class I, II, III forest practices as defined by RCW 76.09.050 or regulations thereunder.
- (b) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land that has been subject to a grazing lease within the previous ten years.
 - (c) Licenses or approvals to remove firewood.

- (d) Issuance of agricultural leases covering one hundred sixty contiguous acres or less.
- (e) Issuance of leases for Christmas tree harvesting or brush picking.
 - (f) Issuance of leases for school sites.
- (g) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.
- (h) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve campsites.
- (i) Periodic use of chemical or mechanical means to maintain public park and recreational land: PROVID-ED, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.
- (j) Issuance of rights of way, easements and use permits to use existing roads in nonresidential areas.
- (k) Establishment of natural area preserves to be used for scientific research and education and for the protection of rare flora and fauna, under the procedures of chapter 79.70 RCW.

WAC 197-11-810 EXEMPTIONS AND NON-EXEMPTIONS APPLICABLE TO SPECIFIC STATE AGENCIES. The exemptions in 197-11-820 through 197-11-875 relate only to the specific activities identified within the named agencies. These exemptions are in addition to the preceding sections of this part and are subject to the rules and limitations of 197-11-305. The categorical exemptions in 197-11-800 apply to all agencies, including those named in 197-11-820 through 197-11-875 unless the general exemptions are specifically made inapplicable by one of the following exemptions.

NEW SECTION

WAC 197-11-820 DEPARTMENT OF LICENS-ING. All licenses required under programs administered by the department of licensing as of December 12, 1975 are exempted, except the following:

- (1) Camping club promotional permits under chapter 19.105 RCW.
- (2) Motor vehicle wrecker licenses under chapter 46-.80 RCW; 197-11-800(14)(i) shall apply to allow possible exemption of renewals of camping club promotional permits and motor vehicle wrecker licenses.

NEW SECTION

WAC 197-11-825 DEPARTMENT OF LABOR AND INDUSTRIES. All licenses required under programs administered by the department of labor and industries as of December 12, 1975 are exempted, except the issuance of any license for the manufacture of explosives or the adoption or amendment by the department of any regulations incorporating general standards

respecting the issuance of licenses authorizing the storage of explosives under chapter 70.74 RCW. The adoption of any industrial health or safety regulations containing noise standards shall be considered a major action under this chapter.

NEW SECTION

WAC 197-11-830 DEPARTMENT OF NATURAL RESOURCES. The following actions and licenses of the department of natural resources are exempted:

- (1) Forest closures, shutdowns and permit suspensions due to extreme unusual fire hazards.
- (2) Operating permits to use power equipment on forest land.
 - (3) Permits to use fuse on forest land.
 - (4) Log patrol licenses.
- (5) Permits for drilling for which no public hearing is required under RCW 79.76.070 (geothermal test drilling).
- (6) Permits for the dumping of forest debris and wood waste in forested areas.
- (7) Those sales of timber from public lands that the department of natural resources determines, by rules adopted pursuant to RCW 43.21C.120 do not have potential for a substantial impact on the environment.
- (8) Except on aquatic lands under state control, leases for mineral prospecting under RCW 79.01.616 or 79.01-.652, but not including issuance of subsequent contracts for mining.

NEW SECTION

WAC 197-11-835 DEPARTMENT OF FISHER-IES. The following activities of the department of fisheries are exempted:

(1) The establishment of seasons, catch limits or geographical areas for fishing or shellfish removal.

- (2) All hydraulic project approvals (RCW 75.20.100) for activities incidental to a class I, II, III forest practice as defined in RCW 76.09.050 or regulations thereunder.
- (3) Hydraulic project approvals where there is no other agency with jurisdiction (besides the department of game) requiring a nonexempt permit, except for proposals involving removal of fifty or more cubic yards of streambed materials or involving realignment into a new channel. For purposes of this paragraph, the term new channel shall not include existing channels which have been naturally abandoned within the twelve months previous to the hydraulic permit application.
- (4) All clam farm licenses and oyster farm licenses, except where cultural practices include structures occupying the water column or where a hatchery or other physical facility is proposed for construction on adjoining uplands.
- (5) All other licenses (other than those excepted in (2) and (3) above) authorized to be issued by the department as of December 12, 1975 except the following:
- (a) Fish farming license, or other licenses allowing the cultivation of aquatic animals for commercial purposes;
- (b) Licenses for the mechanical and/or hydraulic removal of clams, including geoducks; and,

- (c) Any license authorizing the discharge of explosives in water. WAC 197-11-800(14)(i) shall apply to allow possible exemption of renewals of the above licenses.
- (6) The routine release of hatchery fish or the reintroduction of endemic or native species into their historical habitat where only minor documented effects on other species will occur.

WAC 197-11-840 DEPARTMENT OF GAME. The following activities of the department of game are exempted:

- (1) The establishment of hunting, trapping or fishing seasons, bag or catch limits, and geographical areas where such activities are permitted.
 - (2) The issuance of falconry permits.
- (3) The issuance of all hunting or fishing licenses, permits or tags.
 - (4) Artificial game feeding.
 - (5) The issuance of scientific collector permits.
- (6) All hydraulic project approvals (RCW 75.20.100) for activities incidental to a class I, II, III forest practice as defined in RCW 76.09.050 and regulations thereunder.
- (7) Hydraulic project approvals where there is no other agency with jurisdiction (besides the department of fisheries) requiring a nonexempt permit, except for proposals involving removal of fifty or more cubic yards of streambed materials or involving realignment into a new channel. For purposes of this paragraph, the term new channel shall not include existing channels that have been naturally abandoned within the twelve months previous to the hydraulic permit application.
- (8) The routine release or transfer of hatchery fish, game birds, and animals or the reintroduction of endemic or native species into their historical habitat, where only minor documented effects on other species will
- (9) Minor repair work to be done by hand tools. Examples include:
 - (a) Maintenance of fish screen or intake structures; or
- (b) Silt and debris removal from boat launches, docks, and piers.
 - (10) Collection of game fish and wildlife for research.

NEW SECTION

WAC 197-11-845 DEPARTMENT OF SOCIAL AND HEALTH SERVICES. All actions under programs administered by the department of social and health services as of December 12, 1975, are exempted, except the following:

(1) The adoption or amendment by the department of any regulations incorporating general standards for issuance of licenses authorizing the possession, use and transfer of radioactive source material under RCW 70-98.080, except that the issuance, revocation or suspension of individual licenses thereto shall be exempt. However, licenses to operate low level burial facilities or licenses to operate or expand beyond design capacity, mineral processing facilities or their tailings areas whose products or byproducts have concentrations of naturally

- occurring radioactive materials in excess of exempt concentrations, as specified in WAC 402-20-250, shall not be exempt.
- (2) The approval of a comprehensive plan for public water supply systems servicing one thousand or more units under WAC 248-54-065.
- (3) The approval of engineering reports or plans and specifications under WAC 248-54-085 and 248-54-095, for all surface water source development, all water system storage facilities greater than one-half million gallons, new transmission lines longer than one thousand feet located in new rights of way and major extensions to existing water distribution systems.
- (4) The approval of an application for a certificate of need under RCW 70.38.120 for construction of a new hospital or medical facility or for major additions to existing service capacity of such institutions.
- (5) The approval of an application for any system of sewerage and/or water general plan or amendments under RCW 36.94.100.
- (6) The approval of any plans and specifications for new sewage treatment works or major extensions to existing sewer treatment works submitted to the department under WAC 248-92-040.
- (7) The construction of any building, facility or other installation not exempt by 197-11-800 for the purpose of housing department personnel, or fulfilling statutorily directed or authorized functions (e.g., prisons).
- (8) The approval of any final plans for construction of a nursing home pursuant to WAC 248-14-100, construction of a private psychiatric hospital pursuant to WAC 248-22-005 or construction of an alcoholism treatment center pursuant to WAC 248-22-510.

NEW SECTION

WAC 197-11-850 DEPARTMENT OF AGRI-CULTURE. All actions under programs administered by the department of agriculture as of December 12, 1975 are exempted, except for the following:

- (1) The approval of any application for a commercial registered feedlot, quarantined registered feedlot under chapter 16.36 RCW, or chapters 16-28 and 16-30 WAC.
- (2) The issuance or amendment of any regulation respecting restricted—use pesticides under chapter 15.58 RCW that would have the effect of allowing the use of a pesticide previously prohibited by Washington state.
- (3) The removal of any pesticide from the list of restricted—use pesticides established in WAC 16-228-155 so as to permit sale of such pesticides to home and garden users, unless the pesticide is no longer manufactured and is not available.
- (4) The removal of any pesticide from the list of highly toxic and restricted—use pesticides established under WAC 16-228-165 so as to authorize sale of such pesticides to persons not holding an annual user permit, an applicator certificate, or an applicator operator license, unless the pesticide is no longer manufactured and is not available.
- (5) The removal of any pesticide from the category of highly toxic pesticide formulations established in WAC 16-228-165 so as to permit the sale of such pesticides

by persons not possessing a pesticide dealer's license, unless the pesticide is no longer manufactured and is not available.

- (6) The approval of any use of the pesticide DDT or DDD except for those uses approved by the centers for disease control of the United States department of health and human services (such as control of rabid bats).
- (7) The issuance of a license to operate a public livestock market under RCW 16.65.030.
- (8) The provisions of WAC 197-11-800(14)(i) shall apply to allow possible exemption of renewals of the licenses in (1) through (7) above.

NEW SECTION

WAC 197-11-855 DEPARTMENT OF ECOLO-GY. The following activities of the department of ecology shall be exempt:

- (1) The issuance, reissuance or modification of any waste discharge permit that contains conditions no less stringent than federal effluent limitations and state rules and regulations. This exemption shall apply to existing discharges only and shall not apply to any new source discharges.
- (2) Review of comprehensive solid waste management plans under RCW 70.95.100 and 70.95.110.
- (3) Granting or denial of certification of consistency pursuant to the Federal Coastal Zone Management Act (16 U.S.C. 1451).
- (4) Issuance of short-term water quality standards modification, pursuant to chapter 173-201 WAC, for minor projects when the water violations would:
 - (a) Result in turbidity violations only;
 - (b) Be less than fourteen days duration;
- (c) Be mitigated by a current hydraulic project approval conditioned to protect the fishery resource; and
- (d) Not significantly impair beneficial uses of the affected water body.
- (5) Approval of engineering reports when such approval allows preparation of plans and specifications, but not when it would commit the department to approving the final proposal.

NEW SECTION

WAC 197-11-860 DEPARTMENT OF TRANS-PORTATION. The following activities of the department of transportation shall be exempt:

- (1) Approval of the Annual Highway Safety Work Program involving the highway-related safety standards pursuant to 23 U.S.C. 402;
- (2) Issuance of road approach permits and right of way rental agreements;
- (3) Establishment and changing of speed limits of 55 miles per hour or less;
- (4) Revisions of existing access control involving a single property owner;
- (5) Issuance of a "Motorist Information Signing Permit," granting a private business person the privilege of having a sign on highway right of way which informs the public of the availability of his or her services;

- (6) Issuance of permits for special units relative to state highways;
- (7) Issuance of permits for the movement of over-legal size and weight vehicles on state highways;
- (8) Issuance of encroachment permits for road approaches, fences and landfills on highway right of way; and
- (9) Issuance of permits for utility occupancy of highway rights of way for use for distribution (as opposed to transmission).

NEW SECTION

WAC 197-11-865 UTILITIES AND TRANS-PORTATION COMMISSION. All actions of the utilities and transportation commission under statutes administered as of December 12, 1975, are exempted, except the following:

- (1) Issuance of common carrier motor freight authority under chapter 81.80 RCW that would authorize a new service, or extend an existing transportation service in the fields of petroleum and petroleum products in bulk in tank type vehicles, radioactive substances, explosives, or corrosives;
- (2) Authorization of the openings or closing of any highway/railroad grade crossing, or the direction of physical connection of the line of one railroad with that of another;
- (3) Regulation of oil and gas pipelines under chapter 81.88 RCW; and
- (4) The approval of utility and transportation rates where the funds realized as a result of such approved rates will or are intended to finance construction of a project, approval of which would not be otherwise exempt under 197-11-800, and where at the time of such rate approval no responsible official of any state or federal agency has conducted the environmental analysis prescribed by this chapter or the appropriate provisions of NEPA, whichever is applicable.

NEW SECTION

WAC 197-11-870 DEPARTMENT OF COM-MERCE AND ECONOMIC DEVELOPMENT. The following activities of the department of commerce and economic development shall be exempt:

- (1) The provisions of business consulting and advisory services that include tourist promotion under RCW 43.31.050.
- (2) The promotion and development of foreign trade under RCW 43.31.370.
- (3) The furnishing of technical and information services under RCW 43.31.060.
- (4) The provision of technical assistance to applicants for loans and aid and/or grants by the community of economic revitalization board under chapter 43.160 RCW.
- (5) The conduct of research and economic analysis under RCW 43.31.070, including the provision of consulting and advisory services and recommendations to state and local officials, agencies and governmental bodies as authorized under RCW 43.31.160, 43.31.200 and 43.31.210.

WAC 197-11-875 OTHER AGENCIES. Except for building construction (the majority of which is undertaken through the department of general administration), all activities of the following state agencies under programs they administer as of December 12, 1975, are exempted:

- (1) Office of the attorney general.
- (2) Office of the auditor.
- (3) Department of employment security.
- (4) Office of the insurance commissioner and state fire marshal.
 - (5) Department of personnel.
 - (6) Department of printing.
 - (7) Department of revenue.
 - (8) Office of the secretary of state.
 - (9) Office of the treasurer.
 - (10) Arts commission.
 - (11) Washington state patrol.
 - (12) Interagency committee for outdoor recreation.
 - (13) Department of emergency services.
- (14) Department of general administration, division of banking and division of savings and loan associations.
 - (15) Forest practices appeals board.
 - (16) Public employees' retirement system.
- (17) Law enforcement officers' and fire fighters' retirement board.
 - (18) Volunteer fireman's retirement system board.
 - (19) State department of retirement systems.
 - (20) Teachers' retirement system board.
 - (21) Higher education personnel board.
 - (22) Commission for vocational education.
 - (23) State energy office.

NEW SECTION

WAC 197-11-880 EMERGENCIES. Actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt. Agencies may specify these emergency actions in their procedures.

NEW SECTION

WAC 197-11-890 PETITIONING DOE TO CHANGE EXEMPTIONS. (1) Except for the preceding section, agencies may create additional exemptions in their procedures only after receiving approval from the department of ecology under this section.

(2) An agency may petition the department to adopt additional exemptions or to delete existing exemptions by amending these rules. The petition shall be made under RCW 34.04.060. The petition shall state the language of the requested amendment, the petitioning agency's views on the environmental impacts of the activities covered by the proposed amendment, and the approximate number of actions of this type which have come before the petitioning agency over a particular period of time. The department shall consider and decide

upon a petition within thirty days of receipt. If the determination is favorable, the department shall begin rulemaking under chapter 34.04 RCW. Any resulting amendments will apply either generally or to specified classes of agencies. Affected agencies shall amend their procedures accordingly.

- (3) An agency may also petition the department for an immediate ruling upon any request to add, delete, or change an exemption. If such a petition is granted, the department will notify the petitioning agency, which may immediately include the change approved by the department in its own procedures. The department may thereafter begin rulemaking proceedings to amend these rules. Until these rules are amended, any change granted under this subsection shall apply only to the petitioning agency or agencies.
- (4) The department will provide public notice of any proposed amendments to these rules in the manner required by the administrative procedure act, chapter 34.04 RCW. A copy of all approvals by the department under the preceding subsection shall be given to any person requesting the department for advance notice of rulemaking.

PART TEN - AGENCY COMPLIANCE

NEW SECTION

WAC 197-11-900 PURPOSE OF THIS PART. The purpose of this Part is to:

- (1) Require each agency to adopt its own rules and procedures to carry out SEPA and ensure that agency rules and procedures shall have the force and effect of law and shall be consistent with these uniform statewide rules.
- (2) Require agencies to include certain items in their rules.
- (3) Ensure the documents prepared under the act are available to the public.
 - (4) Identify agencies with environmental expertise.
 - (5) Provide rules for determining the lead agency.

NEW SECTION

WAC 197-11-902 AGENCY SEPA POLICIES. (1) The act and these rules allow agencies to condition or deny proposals if such action is based upon policies identified by the appropriate governmental authority. These policies must be incorporated into regulations, plans, or codes formally designated by the agency (or appropriate legislative body, in the case of local government) as possible bases for the exercise of substantive authority under SEPA. (RCW 43.21C.060; 197-11-660.) State and local policies so designated are called "agency SEPA policies" in these rules.

(2) Agencies are required to designate their SEPA policies not later than one hundred eighty days after the effective date of these rules (or the creation of the agency). In order to condition or deny a proposal, an agency must comply with the provisions of RCW 43.21C.060 and 197-11-660. If an agency has already formally designated agency SEPA policies that meet the requirements of the act and these rules, the agency is not

required to adopt them again. Agencies may revise or add to their SEPA policies at any time. Although agency SEPA procedures cannot change the provisions of these rules concerning substantive authority and mitigation (197-11-906(2)), agency SEPA policies are encouraged to identify specific mitigation measures or techniques.

- (3) An agency's document that includes or references by citation their agency SEPA policies (197-11-660(3)) may be included in agency SEPA procedures (197-11-904). Public notice and opportunity for public comment shall be provided as part of the agency process for formally designating its SEPA policies.
- (4) Depending on their content, the formal designation of agency SEPA policies will not necessarily require any environmental review and will normally be categorically exempt as a procedural action under 197-11-800(20). For example, the policies may merely compile, reorganize, or reference laws or policies currently on the books, or may otherwise be procedural in nature, such as requiring decisionmakers to consider certain factors.

NEW SECTION

WAC 197-11-904 AGENCY SEPA PROCE-DURES. (1) Each agency is required by the act and this section to adopt its own rules and procedures for implementing SEPA. (RCW 43.21C.120.) Agencies may revise or add to their SEPA procedures at any time. Agencies may adopt these rules (chapter 197-11 WAC) by reference, and shall meet the requirements of 197-11-906 concerning the content of their procedures. State and local rules for carrying out SEPA procedures are called "agency SEPA procedures."

- (2) State agencies shall adopt or amend their procedures within one hundred eighty days of the effective date of this chapter or subsequent revisions, or within one hundred eighty days of the establishment of an agency, whichever shall occur later. State agencies shall adopt their procedures by rule-making under the state administrative procedure act, chapter 34.04 RCW. If a state agency does not have rule-making authority under chapter 34.04 RCW, the agency shall adopt procedures under whatever authority it has, and public notice and opportunity for public comment shall be provided. Adoption shall be deemed to have taken place at the time the transmittal of adopted rules is filed with the code reviser. Universities, colleges, and community colleges shall use the procedures of chapter 28B.19 RCW in adopting procedures.
- (3) Local agencies shall adopt or amend their procedures within one hundred eighty days of the effective date of this chapter or subsequent revisions, or within one hundred eighty days of the establishment of the local governmental entity, whichever shall occur later. Local agencies shall adopt their procedures by rule, ordinance, or resolution, whichever is appropriate, to ensure that the procedures have the full force and effect of law. Public notice and opportunity for public comment shall be provided as part of the agency's process for adopting its SEPA procedures.
- (4) Any agency determining that all actions it is authorized to take are exempt under Part Nine of these

rules may adopt a statement to the effect that it has reviewed its authorized activities and found them all to be exempt under this chapter. Adoption of such a statement under the procedures in subsections (2) and (3) shall be deemed to be in compliance with the requirement that the agency adopt procedures under this chapter.

(5) The adoption of agency procedures is procedural and shall be categorically exempt under this chapter (197-11-800(20)).

NEW SECTION

WAC 197-11-906 CONTENT AND CONSISTENCY OF AGENCY PROCEDURES. (1)(a) Agency SEPA policies and procedures shall implement and be consistent with the rules in this chapter. Unless optional or permissive (see 197-11-704), all of the provisions of this chapter are mandatory, and agency procedures shall incorporate these rules and criteria.

- (b) Permissive and optional rules shall not be construed as mandatory requirements. Rules giving encouragement or guidance shall also not be construed as mandatory. The decision on whether to apply an optional provision rests with the responsible official.
- (c) Except as stated in the next subsection, the rules in this chapter are not exclusive, and agencies may add procedures and criteria. However, any additional material shall not be inconsistent with, contradict, or make compliance with any provision of these rules a practical impossibility. Any additional material shall be consistent with SEPA.
- (d) Agency procedures shall also include the procedures required by sections 197-11-055 (3)(a) and (4), 197-11-420 (1) and (4), and 197-11-910.
- (e) Agency procedures may include procedures under 197-11-055 (2) and (7), 197-11-100(3), 197-11-680, 197-11-714(2), 197-11-800(1), and 197-11-908. Any such procedures shall include the content required by those rules.
- (2) The following provisions of this chapter are exclusive and may not be added to or changed in agency procedures:
- (a) The definitions of "proposal," "major," "action," "significant," "affecting," "environment," "categorical exemption," "agencies with jurisdiction," "lands covered by water," "built environment," "natural environment," "license," "licensing," "mitigation," and "scope;"
- (b) The criteria for lead agency determination (Part Ten of these rules);
- (c) The categorical exemptions in Part Nine of these rules, unless expressly allowed under Part Nine;
- (d) The information allowed to be required of applicants under 197-11-080, 197-11-100, 197-11-335, and 197-11-420;
- (e) The requirements for the style and size of an EIS (197-11-425);
- (f) The list of elements of the environment (197-11-444); and
- (g) The provisions on substantive authority and mitigation in 197-11-660.
- (3) The following provisions of this chapter may not be changed, but may be added to; any additions shall

meet the criteria for additional material stated in subsection (1)(c) of this section:

- (a) All other definitions in Part Eight of these rules;
- (b) The provisions in Parts Four and Five of these rules, except as necessary to be grammatically incorporated into agency procedures;
- (c) The contents of agency SEPA procedures (197-11-906); and
- (d) The list of agencies with environmental expertise (197-11-920).
- (4) The forms in Part Eleven shall be used substantially as set forth. Minor changes are allowed to make the forms more useful to agencies, applicants, and the public, as long as the changes do not eliminate requested information or impose burdens on applicants. The questions in part two of the environmental checklist shall not be altered.

NEW SECTION

WAC 197-11-908 ENVIRONMENTALLY SEN-SITIVE AREAS. (1) Each county/city may at its option designate areas within its jurisdiction that are environmentally sensitive areas, and shall adopt such designation in its agency SEPA procedures (197-11-906). Environmentally sensitive areas shall be those within which the exemptions listed in the next subsection could have a significant adverse environmental impact, including but not limited to areas with unstable soils, steep slopes, unusual or unique plants or animals, wetlands, or areas which lie within floodplains. The location and extent of all environmentally sensitive areas shall be clearly indicated on a map that shall be adopted by reference as part of the SEPA procedures of the county/city; a copy shall be sent to the department of ecology.

- (2) Each county/city that designates and maps an environmentally sensitive area may select certain categorical exemptions that do not apply within the area. The selection of exemptions that will not apply may be made from the following subsections of 197-11-800: (1), (2) (a) through (h), (3), (5), (6)(a), (14)(c), (24) (a) through (g), and (25)(d), (f), (h), (i). All other categorical exemptions apply whether or not the proposal will be located within an environmentally sensitive area. Exemptions selected by an agency that do not apply within the various environmentally sensitive areas shall be listed within the SEPA procedures of any county/city adopting such areas; a copy shall be sent to the department of ecology.
- (3) Proposals that will be located within environmentally sensitive areas are to be treated no differently than other proposals under this chapter, except as stated in the prior subsection. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in an environmentally sensitive area.
- (4) Certain categorical exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

NEW SECTION

WAC 197-11-910 DESIGNATION OF RE-SPONSIBLE OFFICIAL. Agency SEPA procedures shall designate or provide a method of designating the responsible official with speed and certainty (197-11-906 (1)(d)). This designation may vary depending upon the nature of the proposal. The responsible official shall carry out the duties and functions of the agency when it is acting as the lead agency under these guidelines. Since it is possible under these rules for an agency to be acting as a lead agency prior to actually receiving an application for a license to undertake a private project, designation of the first department within the agency to receive an application as the responsible official will not be sufficient.

NEW SECTION

WAC 197-11-912 PROCEDURES ON CONSULTED AGENCIES. Each agency shall develop internal procedures, manuals, or guidance for providing responses to consultation requests from other agencies pertaining to threshold investigations, the scoping process, or EISs. Such procedures shall ensure that the agency will comply with the requirements of Part Four of these rules. It is recommended that these procedures be integrated within existing procedures of investigating license applications when the consulted agency is also an acting agency.

NEW SECTION

WAC 197-11-914 SEPA FEES AND COSTS. Except for the costs allowed by this chapter (see, for example, sections 197-11-080, 197-11-100, 197-11-340(3)(a), 197-11-420(4), 197-11-440(2)(m), 197-11-504, 197-11-508, 197-11-570, 197-11-600(3)(b) pertaining to the cost of preparing environmental documents), these rules neither authorize nor prohibit the imposition of fees to cover the costs of SEPA compliance.

NEW SECTION

WAC 197-11-916 APPLICATION TO ONGO-ING ACTIONS. (1) Agency SEPA procedures shall apply to any proposal initiated after the effective date of the lead agency's SEPA procedures or those of the agency proposing the action.

- (2) For proposals made before the effective date of revised lead agency SEPA procedures, the revised procedures shall apply to those elements of SEPA compliance initiated after the procedures went into effect. Agency procedures adopted under RCW 43.21C.120 and these rules shall not be applied to invalidate or require modification of any threshold determination, EIS or other element of SEPA compliance undertaken or completed before the effective date of the procedures of the lead agency or of the agency proposing the action.
- (3) Agencies are responsible for compliance with any statutory requirements that went into effect before the adoption of these rules and agency SEPA procedures (for example, the statutory requirements for appeals).

WAC 197-11-917 RELATIONSHIP TO CHAPTER 197-10 WAC. Chapter 197-10 WAC, the original SEPA guidelines, has not been repealed because the existing guidelines of many agencies adopt portions of chapter 197-10 WAC by reference. Chapter 197-10 WAC also continues to apply for the next one hundred eighty days if an agency has not adopted procedures implementing SEPA (197-10-900(2) and 197-11-904). The department of ecology intends to repeal chapter 197-10 WAC one hundred eighty days after the effective date of chapter 197-11 WAC.

NEW SECTION

WAC 197-11-918 LACK OF AGENCY PROCE-DURES. If an agency fails to adopt rules, ordinances, resolutions, or regulations implementing SEPA within the one hundred eighty-day time period required by RCW 43.21C.120, the rules in this chapter shall be applied as practicable to the actions of such agency.

NEW SECTION

WAC 197-11-920 AGENCIES WITH ENVI-RONMENTAL EXPERTISE. The following agencies shall be regarded as possessing special expertise relating to those categories of the environment under which they are listed:

- (1) Air quality.
- (a) Department of ecology.
- (b) Department of natural resources (only for burning in forest areas).
 - (c) Department of social and health services.
 - (d) Regional air pollution control authority or agency.
 - (2) Water resources and water quality.
 - (a) Department of game.
 - (b) Department of ecology.
- (c) Department of natural resources (state—owned tidelands, shorelands, harbor areas or beds of navigable waters)
- (d) Department of social and health services (public water supplies, sewer systems, shellfish habitats).
 - (e) Department of fisheries.
- (3) Hazardous and toxic substances (including radiation).
 - (a) Department of ecology.
 - (b) Department of social and health services.
 - (c) Department of agriculture (foods or pesticides).
 - (d) Department of fisheries (introduction into waters).
 - (e) Department of game (introduction into waters).
 - (4) Solid and hazardous waste.
 - (a) Department of ecology.
 - (b) Department of fisheries (dredge spoils).
 - (c) Department of social and health services.
 - (d) Department of game (dredge spoils).
 - (5) Fish and wildlife.
 - (a) Department of game.
 - (b) Department of fisheries.
 - (6) Natural resources development.
- (a) Department of commerce and economic development.
 - (b) Department of ecology.

- (c) Department of natural resources.
- (d) Department of fisheries.
- (e) Department of game.
- (7) Energy production, transmission and consumption.
- (a) Department of ecology.
- (b) Department of natural resources (geothermal, coal, uranium).
 - (c) State energy office.
 - (d) Energy facility site evaluation council.
 - (e) Utilities and transportation commission.
 - (8) Land use and management.
- (a) Department of commerce and economic development.
 - (b) Department of ecology.
- (c) Department of fisheries (affecting surface or marine waters).
- (d) Department of natural resources (tidelands, shorelands, or state-owned or managed lands).
 - (e) Planning and community affairs agency.
 - (f) Department of game.
 - (9) Noise.
 - (a) Department of ecology.
 - (b) Department of social and health services.
 - (10) Recreation.
- (a) Department of commerce and economic development.
 - (b) Department of game.
 - (c) Department of fisheries.
 - (d) Parks and recreation commission.
 - (e) Department of natural resources.
 - (11) Archaeological/historical.
 - (a) Office of archaeology and historic preservation.
- (b) Washington state university at Pullman (Washington archaeological research center).
 - (12) Transportation.
 - (a) Department of transportation.
 - (b) Utilities and transportation commission.

NEW SECTION

WAC 197-11-922 LEAD AGENCY RULES. The rules for deciding when and how an agency is the lead agency (197-11-050) are contained in this part. The method and criteria for lead agency selection are in 197-11-924. Lead agency rules for different types of proposals as well as for specific proposals are in 197-11-926 through 197-11-940. Rules for interagency agreements are in 197-11-942 through 197-11-944. Rules for asking the department of ecology to resolve lead agency disputes are in 197-11-946. Rules for the assumption of lead agency status by another agency with jurisdiction are in 197-11-948.

NEW SECTION

WAC 197-11-924 DETERMINING THE LEAD AGENCY. (1) The first agency receiving an application for or initiating a nonexempt proposal shall determine the lead agency for that proposal, unless the lead agency has been previously determined, or the agency receiving the proposal is aware that another agency is determining the lead agency. The lead agency shall be determined by using the criteria in 197-11-926 through 197-11-944.

- (2) If an agency determines that another agency is the lead agency, it shall mail to such lead agency a copy of the application it received, together with its determination of lead agency and an explanation. If the agency receiving this determination agrees that it is the lead agency, it shall notify the other agencies with jurisdiction. If it does not agree, and the dispute cannot be resolved by agreement, the agencies shall immediately petition the department of ecology for a lead agency determination under 197-11-946.
- (3) Any agency receiving a lead agency determination to which it objects shall either resolve the dispute, withdraw its objection, or petition the department for a lead agency determination within fifteen days of receiving the determination.
- (4) An applicant may also petition the department to resolve the lead agency dispute under 197-11-946.
- (5) To make the lead agency determination, an agency must determine to the best of its ability the range of proposed actions for the proposal (197-11-060) and the other agencies with jurisdiction over some or all of the proposal. This can be done by:
- (a) Describing or requiring an applicant to describe the main features of the proposal;
 - (b) Reviewing the list of agencies with expertise;
- (c) Contacting potential agencies with jurisdiction either orally or in writing.

WAC 197-11-926 LEAD AGENCY FOR GOV-ERNMENTAL PROPOSALS. (1) When an agency initiates a proposal, it is the lead agency for that proposal. If two or more agencies share in the implementation of a proposal, the agencies shall by agreement determine which agency will be the lead agency. For the purposes of this section, a proposal by an agency does not include proposals to license private activity.

(2) Whenever possible, agency people carrying out SEPA procedures should be different from agency people making the proposal.

NEW SECTION

WAC 197-11-928 LEAD AGENCY FOR PUBLIC AND PRIVATE PROPOSALS. When the proposal involves both private and public activities, it shall be characterized as either a private or a public project for the purposes of lead agency designation, depending upon whether the primary sponsor or initiator of the project is an agency or from the private sector. Any project in which agency and private interests are too intertwined to make this characterization shall be considered a public project. The lead agency for all public projects shall be determined under 197-11-926.

NEW SECTION

WAC 197-11-930 LEAD AGENCY FOR PRIVATE PROJECTS WITH ONE AGENCY WITH JURISDICTION. For proposed private projects for which there is only one agency with jurisdiction, the lead agency shall be the agency with jurisdiction.

NEW SECTION

WAC 197-11-932 LEAD AGENCY FOR PRIVATE PROJECTS REQUIRING LICENSES FROM MORE THAN ONE AGENCY, WHEN ONE OF THE AGENCIES IS A COUNTY/CITY. For proposals for private projects that require nonexempt licenses from more than one agency, when at least one of the agencies requiring such a license is a county/city, the lead agency shall be that county/city within whose jurisdiction is located the greatest portion of the proposed project area, as measured in square feet. For the purposes of this section, the jurisdiction of a county shall not include the areas within the limits of cities or towns within such county.

NEW SECTION

WAC 197-11-934 LEAD AGENCY FOR PRIVATE PROJECTS REQUIRING LICENSES FROM A LOCAL AGENCY, NOT A COUNTY/CITY, AND ONE OR MORE STATE AGENCIES. When a proposed private project requires nonexempt licenses only from a local agency other than a county/city and one or more state agencies, the lead agency shall be the local agency.

NEW SECTION

WAC 197-11-936 LEAD AGENCY FOR PRIVATE PROJECTS REQUIRING LICENSES FROM MORE THAN ONE STATE AGENCY. (1) For private projects which require licenses from more than one state agency, but require no license from a county/city, the lead agency shall be one of the state agencies requiring a license, based upon the following order of priority:

- (a) Department of ecology.
- (b) Department of social and health services.
- (c) Department of natural resources.
- (d) Department of fisheries.
- (e) Department of game.
- (f) Utilities and transportation commission.
- (g) Department of motor vehicles.
- (h) Department of labor and industries.
- (2) When none of the state agencies requiring a license is on the above list, the lead agency shall be the licensing agency that has the largest biennial appropriation.
- (3) When, under subsection (1), an agency would be the lead agency solely because of its involvement in a program jointly administered with another agency, the other agency shall be designated the lead agency for proposals for which it is primarily responsible under agreements previously made between the two agencies for joint operation of the program.

NEW SECTION

WAC 197-11-938 LEAD AGENCIES FOR SPE-CIFIC PROPOSALS. Notwithstanding the lead agency designation criteria contained in 197-11-926 through 197-11-936, the lead agency for proposals within the areas listed below shall be as follows:

- (1) For all governmental actions relating to energy facilities for which certification is required under chapter 80.50 RCW, the lead agency shall be the energy facility site evaluation council (EFSEC); however, for any public project requiring such certification and for which the study under RCW 80.50.175 will not be made, the lead agency shall be the agency initiating the project.
- (2) For all private projects relating to the use of geothermal resources under chapter 79.76 RCW, the lead agency shall be the department of natural resources.
- (3) For all private projects requiring a license or other approval from the oil and gas conservation committee under chapter 78.52 RCW, the lead agency shall be the department of natural resources; however, for projects under RCW 78.52.125, the EIS shall be prepared in accordance with that section.
- (4) For all private activity requiring a license or approval under the Forest Practices Act of 1974, chapter 76.09 RCW, the lead agency shall be the department of natural resources; however, for any proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the lead agency shall be the county/city requiring the license.
- (5) For all private projects requiring a license or lease to use or affect state lands, the lead agency shall be the state agency managing the lands in question; however, this subsection shall not apply to the sale or lease of state—owned tidelands, harbor areas or beds of navigable waters, when such sale or lease is incidental to a larger project for which one or more licenses from other state or local agencies is required.
- (6) For all proposals which are being processed under the Environmental Coordination Procedures Act of 1973 (ECPA), chapter 90.62 RCW, the lead agency shall be determined under the standards of these rules.
- (7) For a pulp or paper mill or oil refinery not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology, when a National Pollutant Discharge Elimination System (NPDES) permit is required under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342).
- (8) For proposals to construct a pipeline greater than six inches in diameter and fifty miles in length, used for the transportation of crude petroleum or petroleum fuels or oil or derivatives thereof, or for the transportation of synthetic or natural gas under pressure not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.
- (9) For proposals that will result in an impoundment of water with a water surface in excess of forty acres, the lead agency shall be the department of ecology.
- (10) For proposals to construct facilities on a single site designed for, or capable of, storing a total of one million or more gallons of any liquid fuel not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.
- (11) For proposals to construct any new oil refinery, or an expansion of an existing refinery that shall increase capacity by ten thousand barrels per day or more not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

- (12) For proposals to construct any new metallic mineral processing plant, or to expand any such existing plant by ten percent or more of design capacity, the lead agency shall be the department of ecology.
- (13) For proposals to construct, operate, or expand any uranium or thorium mill, any tailings areas generated by uranium or thorium milling or any low-level radioactive waste burial facilities, the lead agency shall be the department of social and health services.

WAC 197-11-940 TRANSFER OF LEAD AGENCY STATUS TO A STATE AGENCY. For any proposal for a private project where a city or town with a population of under five thousand or a county of fifth through ninth class would be the lead agency under 197-11-928 through 197-11-938, and when one or more state agencies are agencies with jurisdiction over the proposal, such local agency may at its option transfer the lead agency duties to that state agency with jurisdiction appearing first on the priority listing in 197-11-936. In such event, the state agency so determined shall be the lead agency and the agency making the transfer shall be an agency with jurisdiction. Transfer is accomplished by the county, city or town transmitting a notice of the transfer together with any relevant information it may have on the proposal to the appropriate state agency with jurisdiction. The local agency making the transfer shall also give notice of the transfer to any private applicant and other agencies with jurisdiction involved in the proposal.

NEW SECTION

WAC 197-11-942 AGREEMENTS ON LEAD AGENCY STATUS. Any agency may assume lead agency status if all agencies with jurisdiction agree.

NEW SECTION

WAC 197-11-944 AGREEMENTS ON DIVI-SION OF LEAD AGENCY DUTIES. Two or more agencies may by agreement share or divide the responsibilities of lead agency through any arrangement agreed upon. In such event, however, the agencies involved shall designate one of them as the nominal lead agency, which shall be responsible for complying with the duties of the lead agency under these rules. Other agencies with jurisdiction shall be notified of the agreement and determination of the nominal lead agency.

NEW SECTION

WAC 197-11-946 DOE RESOLUTION OF LEAD AGENCY DISPUTES. (1) If the agencies with jurisdiction are unable to determine which agency is the lead agency under the rules, any agency with jurisdiction may petition the department for a determination. The petition shall clearly describe the proposal in question, and include a list of all licenses and approvals required for the proposal. The petition shall be filed with the department within fifteen days after receipt by the petitioning agency of the determination to which it objects.

Copies of the petition shall be mailed to any applicant involved, as well as to all other agencies with jurisdiction over the proposal. The applicant and agencies with jurisdiction may file with the department a written response to the petition within ten days of the date of the initial filing.

- (2) Within fifteen days of receipt of a petition, the department shall make a written determination of the lead agency, which shall be mailed to the applicant and all agencies with jurisdiction. The department shall make its determination in accordance with these rules and considering the following factors (which are listed in order of descending importance):
 - (a) Magnitude of an agency's involvement.
 - (b) Approval/disapproval authority over the proposal.
 - (c) Expertise concerning the proposal's impacts.
 - (d) Duration of an agency's involvement.
 - (e) Sequence of an agency's involvement.

NEW SECTION

WAC 197-11-948 ASSUMPTION OF LEAD AGENCY STATUS. (1) An agency with jurisdiction over a proposal, upon review of a DNS (197-11-340) may transmit to the initial lead agency a completed "Notice of Assumption of Lead Agency Status." This notice shall be substantially similar to the form in 197-11-985. Assumption of lead agency status shall occur only within fifteen days of issuance of a DNS.

- (2) The DS by the new lead agency shall be based only upon information contained in the environmental checklist attached to the DNS transmitted by the first lead agency and any other information the new lead agency has on the matters contained in the environmental checklist.
- (3) Upon transmitting the DS and notice of assumption of lead agency status, the consulted agency with jurisdiction shall become the "new" lead agency and shall expeditiously prepare an EIS. In addition, all other responsibilities and authority of a lead agency under this chapter shall be transferred to the new lead agency.

NEW SECTION

WAC 197-11-950 SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances shall not be affected.

NEW SECTION

WAC 197-11-955 EFFECTIVE DATE. (1) These rules shall become effective April 4, 1984.

- (2) These rules shall apply to agency decisionmaking under SEPA when one of the following occurs:
- (a) An agency adopts policies, procedures, and practices for this chapter (197-11-902 and 197-11-904); or
- (b) One hundred eighty days has elapsed from the effective date of these rules.
- (3) The relationship of the effective date to ongoing actions is in 197-11-916 and 197-11-917.
- (4) Nothing in these rules shall delay agency compliance with any requirement in chapter 43.21C RCW, as

amended, such as RCW 43.21C.031 and 43.21C.075 (as noted in 197-11-916(3)).

PART ELEVEN - FORMS

NEW SECTION

WAC 197-11-960 ENVIRONMENTAL CHECKLIST.

ENVIRONMENTAL CHECKLIST

Purpose of Checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NON-PROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

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- A. BACKGROUND
- 1. Name of proposed project, if applicable:
- 2. Name of applicant:
- 3. Address and phone number of applicant and contact person:
- and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

- 4. Date checklist prepared:
- 5. Agency requesting checklist:
- 6. Proposed timing or schedule (including phasing, if applicable):
- 7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.
- 8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.
- 9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.
- 10. List any government approvals or permits that will be needed for your proposal, if known.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project 12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

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- **B.** ENVIRONMENTAL ELEMENTS
- a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other _.
- b. What is the steepest slope on the site (approximate percent slope)?
- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.
- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

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EVALUATION FOR AGENCY USE ONLY TO BE COMPLETED BY APPLICANT

a. Surface:

it flows into.

EVALUATION FOR AGENCY USE ONLY

- Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.
- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.
- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?
- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:
- 2. Air
- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.
- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.
- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river

1) Is there any surface water body

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.
- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.
- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.
- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.
- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

b. Ground:

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known. TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

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2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

c. Water Runoff (including stormwater):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.
- 2) Could waste materials enter ground or surface waters? If so, generally describe.
- d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

4. Plants

 a. Check or circle types of vegetation found on the site:

__ deciduous tree: alder, maple,

aspen, other

__ evergreen tree: fir, cedar, pine,

other

__ shrubs

__ grass

_ pasture

__ crop or grain

- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
 other types of vegetation
- b. What kind and amount of vegetation will be removed or altered?
- c. List threatened or endangered species known to be on or near the site.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

5. Animals

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

- List any threatened or endangered species known to be on or near the site.
- c. Is the site part of a migration route? If so, explain.
- d. Proposed measures to preserve or enhance wildlife, if any:

6. Energy and Natural Resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.
- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

7. Environmental Health

 Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and

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- explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.
- 1) Describe special emergency services that might be required.
- 2) Proposed measures to reduce or control environmental health hazards, if any:
- b. Noise
 - 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?
 - 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.
 - 3) Proposed measures to reduce or control noise impacts, if any:
- 8. Land and Shoreline Use
- a. What is the current use of the site and adjacent properties?
- b. Has the site been used for agriculture? If so, describe.
- c. Describe any structures on the site.

e. What is the current zoning classification of the site?

d. Will any structures be demol-

ished? If so, what?

- f. What is the current comprehensive plan designation of the site?
- g. If applicable, what is the current shoreline master program designation of the site?
- h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.
- i. Approximately how many people would reside or work in the completed project?
- j. Approximately how many people would the completed project displace?
- k. Proposed measures to avoid or reduce displacement impacts, if any:
- Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
- 9. Housing
- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or lowincome housing.
- Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or lowincome housing.
- Proposed measures to reduce or control housing impacts, if any:

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be provided by the project or applicant, if any:

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
- b. What views in the immediate vicinity would be altered or obstructed?
- c. Proposed measures to reduce or control aesthetic impacts, if any:
- 11. Light and Glare
- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
- b. Could light or glare from the finished project be a safety hazard or interfere with views?
- c. What existing off-site sources of light or glare may affect your proposal?
- d. Proposed measures to reduce or control light and glare impacts, if any:
- 12. Recreation
- a. What designated and informal recreational opportunities are in the immediate vicinity?
- b. Would the proposed project displace any existing recreational uses? If so, describe.
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to

13. Historic and Cultural Preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.
- b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.
- c. Proposed measures to reduce or control impacts, if any:
- 14. Transportation
- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.
- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?
- c. How many parking spaces would the completed project have? How many would the project eliminate?
- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).
- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

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- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.
- g. Proposed measures to reduce or control transportation impacts, if any:
- 15. Public Services
- a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.
- Proposed measures to reduce or control direct impacts on public services, if any.
- 16. Utilities
- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.
- C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

 How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Proposed measures to avoid or reduce such increases are:

How would the proposal be likely to affect plants, animals, fish, or marine life?

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

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TO BE COMPLETED BY APPLICANT	EVALUATION FOR AGENCY USE	Title of document being adopted
	ONLY	Agency that prepared document being adopted
		Date adopted document was prepared
		Description of document (or portion) being adopted
Proposed measures to protect such resources or to avoid or reduce		
impacts are:		If the document being adopted has been challenged (197-11-630), please describe:
5. How would the proposal be likely to line use, including whether it would land or shoreline uses incompatible w	d allow or encourage	The document is available to be read at (place/time)
Proposed measures to avoid or re- duce shoreline and land use im-		We have identified and adopted this document as being appropriate for this proposal after independent review. The document meets our environmental review needs for the current proposal and will accompany the proposal to the decisionmaker.
pacts are:		Name of agency adopting document
		Contact person, if other than responsible official Phone
6. How would the proposal be likely to	increase demands on	Responsible official
transportation or public services and	utilities?	Position/title Phone Phone
		Address
		DateSignature
Proposed measures to reduce or		NEW SECTION
respond to such demand(s) are:		WAC 197-11-970 DETERMINATION OF NONSIGNIFICANCE (DNS).
		DETERMINATION OF NONSIGNIFICANCE
7. Identify, if possible, whether the		Description of proposal
proposal may conflict with local,		
state, or federal laws or require- ments for the protection of the en-		
vironment.		Proponent
NEW SECTION		Location of proposal, including street address, if any
WAC 197-11-965 ADOPTION N	NOTICE.	
ADOPTION OF EXISTING ENVIRONMEN	TAL DOCUMENT	
Adoption for (check appr □ DNS □ EIS □ other	ropriate box)	Lead agency
Description of current proposal Proponent		The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the
Location of current proposal		public on request.
		☐ There is no comment period for this DNS.
		This DNS is issued under 197-11-340(2); the lead

date below. Comments must be submitted by	
Responsible official	Responsible official
Position/title Phone	Position/title Phone
	Address
Address	DateSignature
DateSignature	(OPTIONAL)
(OPTIONAL) You may appeal this determination to (name)	☐ You may appeal this determination of significance to (name)
at (location) no later than (date) by (method)	at (location) no later than (date) by (method)
You should be prepared to make specific factual objections. Contactto read or ask about the procedures • for SEPA appeals.	You should be prepared to make specific factual objections. Contact
☐ There is no agency appeal.	☐ There is no agency appeal.
NEW SECTION	NEW SECTION
WAC 197-11-980 DETERMINATION OF SIGNIFICANCE AND SCOPING NOTICE (DS).	WAC 197-11-985 NOTICE OF ASSUMPTION OF LEAD AGENCY STATUS.
DETERMINATION OF SIGNIFICANCE	NOTICE OF ASSUMPTION OF LEAD AGENCY STATUS
AND REQUEST FOR COMMENTS ON SCOPE OF EIS Description of proposal	Description of proposal
	Proponent
Proponent Location of proposal	Location of proposal
	Initial lead agency
Lead agency	New lead agency
EIS Required. The lead agency has determined this proposal is likely to have a significant adverse impact on the environment. An environmental impact statement (EIS) is required under RCW 43.21C.030(2)(c) and will be prepared. An environmental checklist or other materials	The initial lead agency concluded that this proposal was not likely to have significant adverse impact on the environment, according to its determination of nonsignificance dated
indicating likely environmental impacts can be reviewed at our offices.	We have reviewed the environmental checklist and re- lated information. In our opinion, an environmental im-
The lead agency has identified the following areas for discussion in the EIS:	pact statement (EIS) is required on the proposal, because of the following impacts:
Scoping. Agencies, affected tribes, and members of the public are invited to comment on the scope of the EIS. You may comment on alternatives, mitigation measures,	You are being notified that we assume the responsibility of lead agency under SEPA, including the duty to prepare an EIS on the proposal.
probable significant adverse impacts, and licenses or	Responsible official
other approvals that may be required. The method and deadline for giving us your comments is:	Position/title Phone Address
	DateSignature

WAC 197-11-990 NOTICE OF ACTION.

NOTICE OF ACTION

Notice is given under SEPA, RCW 43.21C.080, that (name of agency or entity) took the action described in (2) below on (date).
1. Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of noncompliance with the provisions of chapter 43.21C RCW (state environmental policy act) shall be commenced on or before (date)
2. Description of agency action:
3. Description of proposal (if not covered by (2)):
4. Location of proposal (a sufficient description should be given to locate the site, if any, but a complete legal description is not required):
5. Type of environmental review under SEPA (include name and date of any environmental documents):
6. Documents may be examined during regular business hours at (location, including room number, if any):
7. Name of agency, proponent, or applicant giving notice:
8. This notice is filed by (signature of individual and capacity in which the person is signing):
Date

WSR 84-05-021 ADOPTED RULES DEPARTMENT OF ECOLOGY (Council on Environmental Policy)

[Order DE 83-45-Filed February 10, 1984-Eff. October 1, 1984]

I, Donald W. Moos, director of the Washington Department of Ecology, do promulgate and adopt at Lacey,

Washington, the annexed rules relating to SEPA guidelines, repealing chapter 197-10 WAC.

This action is taken pursuant to Notice No. WSR 83-23-114 filed with the code reviser on November 23, 1983. These rules shall take effect at a later date, such date being October 1, 1984.

This rule is promulgated pursuant to RCW 43.21C-110 which directs that the Department of Ecology has authority to implement the provisions of the State Environmental Policy Act, chapter 43.21C RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 26, 1984.

By Donald W. Moos Director

WSR 84-05-022 PROPOSED RULES DEPARTMENT OF REVENUE

[Filed February 10, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning Stumpage values—Tables for January 1 through June 30, 1984, amending WAC 458-40-18711;

that the agency will at 10:00 a.m., Tuesday, March 27, 1984, in the Conference Room, 303 Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 84.33.071.

The specific statute these rules are intended to implement is RCW 84.33.071.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 27, 1984.

Dated: February 10, 1984

By: John B. Conklin

Forest Tax Supervisor

STATEMENT OF PURPOSE

This statement of purpose, prepared in compliance with RCW 34.04.045, accompanies proposed rules to be promulgated by the Department of Revenue as follows:

Title: Tables for determination of stumpage values, amending WAC 458-40-18711.

Purpose: To establish Conifer Utility (CU) stumpage values in Stumpage Value Areas 6, 7, 8, 9 and 10, for reporting and payment of the timber excise tax levied by RCW 84.33.071.

Statutory Authority: RCW 84.33.071, which directs the Department of Revenue to prepare tables of stumpage values before June 30 and December 31 of each year to be used for the six month periods thereafter.

Summary and Reasons for the Rule: The tables set out the value of stumpage for each species or subclassification of timber within designated areas having similar growing, harvesting and marketing conditions. These values are to be used for computing the timber excise tax due quarterly by timber harvesters upon timber harvested for sale or for commercial industrial use during the period January 1, 1984, through June 30, 1984.

Drafters of the Rule: John Conklin, (206) 753-2871, and Joe Gienty, (206) 753-1385, Evergreen Plaza Building, Room 303, 711 South Capitol Way, Olympia, WA 98504.

Rule Implementation and Enforcement: Trevor W. Thompson, Director, Property Tax, Evergreen Plaza Building, 711 South Capitol Way, Olympia, WA 98504, (206) 753-5503.

Proposer of the Rule: Department of Revenue, General Administration Building, Olympia, WA 98504.

Comments and Recommendations: None.

Federal Law or Court Action Citation: No federal laws involved or action requested by the courts.

AMENDATORY SECTION (Amending Order FT-83-7, filed 12/30/83)

WAC 458-40-18711 STUMPAGE VALUES-TABLES FOR JANUARY 1 THROUGH JUNE 30, 1984. As required by RCW 84.33.071 the department has prepared tables which assign stumpage value rates for the various harvest types, which rates vary depending upon the stumpage value area, species, timber quality code number and hauling distance zone involved. Where the timber harvested is used to produce harvest type "special forest products" the value tables of this section shall establish the values for such special forest

The following stumpage value and special forest product value tables are hereby adopted for use during the period of January 1 through June 30, 1984.

TABLE 1—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 1 January 1 through June 30, 1984

OLD GROWTH FINAL HARVEST (100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Ci	Timber Quality Code	Hauling Distance Zone Number				
	Species Code	Number	ì	2	3	4	5
Douglas-fir	DF	1	\$146	\$140	\$134	\$128	\$122
0		2	107	101	95	89	83
		3	89	83	77	71	65
Western Hemlock ²	WH	1	177	171	165	159	153
		2 .	129	123	117	111	105
		3	107	101	95	89	83
True Fir ³	TF	1	177	171	165	159	153
		2	129	123	117	111	105
		3	107	101	95	89	83
Western Redcedar ⁴	RC	1	232	226	220	214	208
		2	168	162	156	150	144
		3	139	133	127	121	115
Sitka Spruce	SS	1	255	249	243	237	231
p		2	184	178	172	166	160
		3	152	146	140	134	128

TABLE 1-cont. Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

G		Timber Quality Code	Hauling Distance Zone Number				
Species Name	Species Code	Number	1	2	3	4	5
Other Conifer	ос	1	177	171	165	159	153
		2	129	123	117	111	105
		3	107	101	95	89	83
Red Alder	RA	1	45	38	31	24	17
Cottonwood	BC	1	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	8	8	8	8	8

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

Includes Western and Mountain Hemlock.

Includes Alaska-cedar.

TABLE 2—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 1 January 1 through June 30, 1984

YOUNG GROWTH AND THINNING (less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species	Species	Timber Quality ries Code	1	Hauling Distance Zone Number					
Name		Number	1	2	3	4	5		
Douglas-fir	DF	1	\$167	\$160	\$153	\$146	\$139		
•		2	122	115	108	101	94		
		3	102	95	88	81	74		
		4	90	83	76	69	62		
Western Hemlock ²	WH	1	114	107	100	93	86		
		2	85	78	71	64	57		
		3	72	65	58	51	44		
		4	64	57	50	43	36		
True Fir ³	TF	1	114	107	100	93	86		
		2	85	78	71	64	57		
		3	72	65	58	51	44		
		4	64	57	50	43	36		
Western Redcedar ⁴	RC	1	115	108	101	94	87		
		2	86	79	72	65	58		
		3	73	66	59	52	45		
Other Conifer	ос	1	114	107	100	93	86		
		2	85	78	71	64	57		
		3	72	65	58	51	44		
		4	64	57	50	43	36		
Red Alder	RA	1	45	38	31	24	17		
Cottonwood	ВС	1	60	53	46	39	32		
Other Hardwoods	ОН	1	49	42	35	28	21		
Hardwood Utility	HU	5	5	5	5	5	5		
Conifer Utility	CU	5	8	8	8	8	8		

Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.
Includes Western and Mountain Hemlock.

⁴Includes Alaska-cedar.

³Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

³Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

TABLE 3—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 1 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product		Timber Quality	Hauling Distance Zone Number					
	Species Code	Code Number	1	2	3	4	5	
Western Redcedar- Shake Blocks & Boards	RCS	1	\$248	\$242	\$236	\$230	\$224	
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	91	85	79	73	67	
Western Redcedar & Other Posts	RCP	1	0.20	0.20	0.20	0.20	0.20	
Douglas-fir Christ- mas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18	
True Fir & Other Christmas Trees	TFX	1	0.40	0.40	0.40	0.40	0.40	

¹Stumpage value per MBF net Scribner scale. See conversion method table 2 WAC 458-40-19004.

²Stumpage value per 8 lineal feet or portion thereof.

TABLE 4-STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 2 January 1 through June 30, 1984

OLD GROWTH FINAL HARVEST (100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	· · · · · · · · · · · · · · · · · · ·	Timber Quality	Γ				
	Species Code	Code Number	1	2	3	4	5
Douglas-fir	DF	1	\$166	\$160	\$154	\$148	\$142
g		2	121	115	109	103	97
		2 3	101	95	89	83	77
Western Hemlock ²	WH	1	152	146	140	134	128
W COLUMN TIGHTION			111	105	99	93	87
		2 3	93	87	81	75	69
True Fir ³	TF	1	152	146	140	134	128
1100111		2	111	105	99	93	87
		3	93	87	81	75	69
Western Redcedar ⁴	RC	1	247	241	235	229	223
		2	178	172	166	160	154
		3	148	142	136	130	124
Sitka Spruce	SS	1	255	249	243	237	231
p			184	178	172	166	160
		2 3	152	146	140	134	128
Other Conifer	oc	1	152	146	140	134	128
			111	105	99	93	87
		2 3	93	87	81	75	69
Red Alder	RA	1	45	38	31	24	17
Cottonwood	ВС	1	60	53	46	39	32

TABLE 4-cont. Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Timber Quality	D	umber				
	Species Code	Code Number	1	2	3	4	5
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	9	9	9	9	9

 ¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.
 ²Includes Western and Mountain Hemlock.

TABLE 5—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 2 January 1 through June 30, 1984

YOUNG GROWTH AND THINNING (less than 100 years of age)

	6	Timber Quality	D		lauling Zone N	Number	
Species Name	Species Code	Code Number	1	2	3	4	5
Douglas-fir	DF	1	\$203	\$196	\$189	\$182	\$175
		2	147	140	133	126	119
		3	123	116	109	102	95
		4	108	101	94	87	80
Western Hemlock ²	WH	1	155	148	141	134	127
		2	114	107	100	93	86
		3	96	89	82	75	68
		4	85	78	71	64	57
True Fir ³	TF	1	155	148	141	134	127
		2	114	107	100	93	86
		3	96	89	82	75	68
		4	85	78	71	64	57
Western Redcedar ⁴	RC	1	115	108	101	94	87
		2	86	79	72	65	58
		3	73	66	59	52	45
Other Conifer	ос	1	155	148	141	134	127
		2	114	107	100	93	86
		3	96	89	82	75	68
		4	85	78	71	64	57
Red Alder	RA	1	45	38	31	24	17
Cottonwood	ВС	1	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	9	9	9	9	9

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

Includes Western and Mountain Hemlock.

³Stumpage value per lineal foot.

³Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

Includes Alaska-cedar.

³Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

Includes Alaska-cedar.

TABLE 6—STUMPAGE VALUE TABLE **STUMPAGE VALUE AREA 2** January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product	_	Timber Quality		Hauling Distance Zone Number				
	Species Code	Code Number	1	2	3	4	5	
Western Redeedar- Shake Blocks & Boards	RCS	1	\$248	\$242	\$236	\$230	\$224	
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	91	85	79	73	67	
Western Redcedar & Other Posts ²	RCP	1	0.20	0.20	0.20	0.20	0.20	
Douglas-fir Christ- mas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18	
True Fir & Other Christmas Trees ³	TFX	1	0.40	0.40	0.40	0.40	0.40	

¹Stumpage value per MBF net Scribner scale. See conversion method table 2 WAC 458-40-19004.

TABLE 7—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 3 January 1 through June 30, 1984

OLD GROWTH FINAL HARVEST (100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species	Timber Quality Code	I				
		Number	1	2	3	4	5
Douglas-fir	DF	1	\$193	\$187	\$181	\$175	\$169
•		2	140	134	128	122	116
		3	116	110	104	98	92
Western Hemlock ²	WH	1	166	160	154	148	142
		2	121	115	109	103	97
		3	101	95	89	83	77
True Fir ³	TF	1	166	160	154	148	142
		2	121	115	109	103	97
		3	101	95	89	83	77
Western Redcedar	RC	1	249	243	237	231	225
			180	174	168	162	156
		2 3	149	143	137	131	125
Sitka Spruce	SS	1	255	249	243	237	231
			184	178	172	166	160
		2 3	152	146	140	134	128
Alaska-cedar	YC	1	1107	1101	1095	1089	1083
		2	786	780	774	768	762
		2 3	644	638	632	626	620
Other Conifer	ос	1	166	160	154	148	142
		2	121	115	109	103	97
		3	101	95	89	83	77

TABLE 7—cont. Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

O minat	Sanaina.	Timber Quality		Hauling Distance Zone Number					
Species Name	Species Code	Code - Number	1	2	3	4	5		
Red Alder	RA	1	45	38	31	24	17		
Cottonwood	ВС	1	60	53	46	39	32		
Other Hardwoods	ОН	1	49	42	35	28	21		
Hardwood Utility	HU	5	5	5	5	5	5		
Conifer Utility	CU	5	6	6	6	6	6		

TABLE 8—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 3 January 1 through June 30, 1984

YOUNG GROWTH AND THINNING (less than 100 years of age)

		Timber			lauling		
Species	Species	Quality Code	Ι	Distance	Zone 1	Number	
Name		Number	1	2	3	4	5
Douglas-fir	DF	1	\$209	\$202	\$195	\$188	\$181
•		2	152	145	138	131	124
		3	127	120	113	106	99
		4	112	105	98	91	84
Western Hemlock ²	WH	1	160	153	146	139	132
		2	117	110	103	96	89
		3	98	91	84	77	70
		4	87	80	73	66	59
True Fir ³	TF	1	160	153	146	139	132
		2	117	110	103	96	89
		3	98	91	84	77	70
		4	87	80	73	66	59
Western Redcedar ⁴	RC	1	115	108	101	94	87
		2	86	79	72	65	58
		3	73	66	59	52	45
Other Conifer	ос	1	160	153	146	139	132
		2	117	110	103	96	89
		3	98	91	84	77	70
		4	87	80	73	66	59
Red Alder	RA	1	45	38	31	24	17
Cottonwood	ВС	1	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

²Includes Western and Mountain Hemlock.

Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.
Includes Western and Mountain Hemlock.
Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

Includes Alaska-cedar.

TABLE 9—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 3

January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS Stumpage Values per Product Unit

Species Name and Product		Timber Quality	Hauling Distance Zone Number					
	Species Code	Code Number	1	2	3	4	5	
Western Redeedar- Shake Blocks & Boards	RCS	1	\$201	\$195	\$189	\$183	\$177	
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	75	69	63	57	51	
Western Redcedar & Other Posts ²	RCP	1	0.20	0.20	0.20	0.20	0.20	
Douglas-fir Christ- mas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18	
True Fir & Other Christmas Trees	TFX	1	0.40	0.40	0.40	0.40	0.40	

¹Stumpage value per MBF net Scribner scale. See conversion method table 2 WAC 458-40-19004. 2Stumpage value per 8 lineal feet or portion thereof. 3Stumpage value per lineal foot.

TABLE 10-STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 4 January I through June 30, 1984

OLD GROWTH FINAL HARVEST (100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Sandin	Si	Timber Quality Code	I		Hauling Zone N	Number	
Species Name	Species Code	Number	1	2	3	4	5
Douglas-fir	DF	. 1	\$228	\$222	\$216	\$210	\$204
- · · · y · · ·		2	164	158	152	146	140
		3	136	130	124	118	112
Western Hemlock ²	WH	1	176	170	164	158	152
		2	128	122	116	110	104
	4	3	106	100	94	88	82
True Fir ³	TF	1	176	170	164	158	152
1100 111	••	2	128	122	116	110	104
		3	106	100	94	88	82
Western Redcedar	RC	1	249	243	237	231	225
		2	180	174	168	162	156
•		3	149	143	137	131	125
Sitka Spruce	SS	1	255	249	243	237	231
		2	184	178	172	166	160
		3	152	146	140	134	128
Noble Fir	NF	1	285	279	273	267	261
		2	205	199	193	187	181
		3	170	164	158	152	146
Alaska-cedar	YC	1	1107	1101	1095	1089	1083
		2	786	780	774	768	762
		3	644	638	632	626	620
Other Conifer	ос	1	176	170	164	158	152
		2	128	122	116	110	104
		3	106	100	94	88	82
Red Alder	RA	1	45	38	31	24	17

TABLE 10-cont. Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

	-		· · · · · · · · · · · · · · · · · · ·						
Si	C	Timber Quality		Hauling Distance Zone Number					
Species Name	Species Code	Code - Number	1	2	3	4	5		
Cottonwood	ВС	1	60	53	46	39	32		
Other Hardwoods	ОН	1	49	42	35	28	21		
Hardwood Utility	HU	5	5	5	5	5	5		
Conifer Utility	CU	5	5	5	5	5	5		

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

²Includes Western and Mountain Hemlock.

TABLE 11—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 4 January 1 through June 30, 1984

YOUNG GROWTH AND THINNING (less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

		Timber Quality	Γ		Hauling Zone N	lumber	
Species Name	Species Code	Code Number	1	2	3	4	5
Douglas-fir	DF	1	\$222	\$215	\$208	\$201	\$194
		2	161	154	147	140	133
		3	134	127	120	113	106
		4	118	111	104	97	90
Western Hemlock ²	WH	1	145	138	131	124	117
		2	106	99	92	85	78
		3	89	82	75	68	61
		4	79	72	65	58	51
True Fir ³	TF	1	145	138	131	124	117
		2	106	99	92	85	78
		3	89	82	75	68	61
		4	79	72	65	58	51
Western Redcedar ⁴	RC	1	115	108	101	94	87
		2	86	79	72	65	58
		3	73	66	59	52	45
Other Conifer	ос	1	206	199	192	185	178
		2	150	143	136	129	122
		3	125	118	111	104	97
		4	110	103	96	89	82
Red Alder	RA	1	45	38	31	24	17
Cottonwood	ВС	1	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	

¹Log scale conversions between Western and Eastern Washington. See con-

version method tables 4 and 5 WAC 458-40-19004.
Includes Western and Mountain Hemlock.

³ Includes Pacific Silver Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

Includes Alaska-cedar.

TABLE 12—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 4 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and		Timber Quality	Hauling Distance Zone Number						
Product	Species Code	Code Number	1	2	3	4	5		
Western Redeedar- Shake Blocks & Boards	RCS	1	\$230	\$224	\$218	\$212	\$206		
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	85	79	73	67	61		
Western Redcedar & Other Posts ²	RCP	1	0.20	0.20	0.20	0.20	0.20		
Douglas-fir Christ- mas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18		
True Fir & Other Christmas Trees ³	TFX	, 1	0.40	0.40	0.40	0.40	0.40		

Stumpage value per MBF net Scribner scale. See conversion method table 2 WAC 458-40-19004.
Stumpage value per 8 lineal feet or portion thereof.

TABLE 13—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 5 January 1 through June 30, 1984

OLD GROWTH FINAL HARVEST (100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

gt	9	Timber Quality	Hauling Distance Zone Number					
Species Name	Species Code	Code Number	1	2	3	4	5	
Douglas-fir	DF	1	\$297	\$291	\$285	\$279	\$273	
		2	214	208	202	196	190	
		3	178	172	166	160	154	
Western Hemlock ²	WH	1	166	160	154	148	142	
			121	115	109	103	97	
		2 3	101	95	89	83	77	
True Fir ³	TF	1	166	160	154	148	142	
		2	121	115	109	103	97	
		3	101	95	89	83	77	
Western Redcedar ⁴	RC	1	249	243	237	231	225	
		2	180	174	168	162	156	
		3	149	143	137	131	125	
Sitka Spruce	SS	1	255	249	243	237	231	
•		2 3	184	178	172	166	160	
		3	152	146	140	134	128	
Noble Fir	NF	1	285	279	273	267	261	
		2 3	205	199	193	187	181	
		3	170	164	158	152	146	
Other Conifer	ос	1	166	160	154	148	142	
		2	121	115	109	103	97	
		3	101	95	89	83	77	
Red Alder	RA	1	45	38	31	24	17	

TABLE 13-cont. Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Caraina	Species	Timber Quality Species Code -		Hauling Distance Zone Number					
Species Name		Number	1	2	3	4	5		
Cottonwood	ВС	1	60	53	46	39	32		
Other Hardwoods	ОН	1	49	42	35	28	21		
Hardwood Utility	HU	5	5	5	5	5	5		
Conifer Utility	CU	5	5	5	5	5	5		

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

Includes Western and Mountain Hemlock.

TABLE 14—STUMPAGE VALUE TABLE **STUMPAGE VALUE AREA 5** January 1 through June 30, 1984

YOUNG GROWTH AND THINNING (less than 100 years of age)

	Timber Quality	I				
Species Code	Code Number	1	2	3	4	5
DF	1	\$208	\$201	\$194	\$187	\$180
	2	151	144	137	130	123
						98
	4	111	104	97	90	83
WH	1	145	138	131	124	117
	2	106	99	92	85	78
	3	89	82	75	68	61
	4	79	72	65	58	51
TF	1	145	138	131	124	117
	2	106	99	92	85	78
	3	89	82	75	68	61
	4	79	72	65	58	51
RC	1	115	108	101	94	87
	2	86	79	72	65	58
	3	73	66	59	52	45
ос	1	145	138	131	124	117
		106	99			78
						61
	4	79	72	65	58	51
RA	1	45	38	31	24	17
ВС	1	60	53	46	39	32
ОН	1	49	42	35	28	- 21
HU	5	5	5	5	5	5
CU	5	5	5	5	5	5
	Code DF WH TF RC OC RA BC OH HU	Species Code Code Code Number	Species Code Code Number 1	Species Code Code Code Number 1 2	Distance Zone Code Code Number 1 2 3 3 3 3 26 119 112 4 111 104 97 3 3 3 3 3 3 3 3 3	Distance Zone Number Code Number Code Number 1 2 3 4

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

²Includes Western and Mountain Hemiock

³Stumpage value per lineal foot.

Includes Pacific Silver Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

Includes Alaska-cedar.

Includes Western and Mountain Hemlock.

Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

Alaska-cedar.

TABLE 15-STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 5 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product		Timber Quality		Hauling Distance Zone Number						
	Species Co Code Nun		ı	2	3	4	5			
Western Redcedar- Shake Blocks & Boards	RCS	1	\$210	\$204	\$198	\$ 192	\$ 186			
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	78	72	66	60	54			
Western Redcedar & Other Posts ²	RCP	1	0.20	0.20	0.20	0.20	0.20			
Douglas-fir Christ- mas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18			
True fir & Other Christmas Trees	TFX	1	0.40	0.40	0.40	0.40	0.40			

¹Stumpage value per MBF net Scribner scale. See conversion method table 2 WAC 458-40-19004.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

TABLE 16—STUMPAGE VALUE TABLE STUMPAGE VALUE AREAS 6, 7, 8, AND 9 January 1 through June 30, 1984

MERCHANTABLE SAWTIMBER, ALL AGES

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

	-		TT - 1'						
		Timber Quality	D	H istance	auling Zone 1	Number			
Species Name	Species Code	Code Number	1	2	3	4	5		
Ponderosa Pine	PP	1 2	\$132 97	\$126 91	\$120 85	\$114 79	\$108 73		
Douglas-fir	DF	1	93	87	81	75	69		
Western Larch	WL	1	93	87	81	75	69		
Western Hemlock ²	WH	1	62	56	50	44	38		
True fir ³	TF	1	62	56	50	44	38		
Engelmann Spruce	ES	1	63	57	51	45	39		
Western White Pine	WP	1	104	98	92	86	80		
Western Redcedar	RC	1	110	104	98	92	86		
Lodgepole Pine	LP	1	40	34	28	22	16		
Hardwoods	ОН	1	18	12	6	1	1		
Utility	CU	5	((21)) 9	((15)) <u>9</u>	9	((3))	((1)		

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

TABLE 17—STUMPAGE VALUE TABLE STUMPAGE VALUE AREAS 6, 7, 8, AND 9 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product		Timber Quality	Hauling Distance Zone Number						
	Species Code	Code Number	1	2	3	4	. 5		
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	\$99	\$ 93	\$87	\$ 81	\$ 75		
Lodgepole Pine & Other Posts ²	LPP	1	0.20	0.20	0.20	0.20	0.20		
Pine Christmas Trees	PX	1	0.18	0.18	0.18	0.18	0.18		
Douglas-fir & Other Christmas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18		

Stumpage value per MBF net Scribner scale. See conversion method table

TABLE 18—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 10 January 1 through June 30, 1984

MERCHANTABLE SAWTIMBER, ALL AGES

	•					•	
		Timber Quality	Di	H	auling Zone 1	Number	
Species Name	Species Code	Code Number	<u> </u>	2	3	4	5
Ponderosa Pine	PP	1	\$147	\$141	\$135	\$129	\$123
		2 3	121	115	109	103	97
		3	105	99	93	87	81
Douglas-fir	DF	1	146	140	134	128	122
-		2	119	113	107	101	95
		3	55	49	43	37	31
Western Larch	WL	1	146	140	134	128	122
		2 3	119	113	107	101	95
		3	55	49	43	37	31
Western Hemlock ²	WH	1	145	139	133	127	121
		2	112	106	100	94	88
		3	70	64	58	52	46
True Fir ³	TF	1	145	139	133	127	121
		2	112	106	100	94	88
		3	70	64	58	52	46
Other Conifer	ос	1	145	139	133	127	121
		2	112	106	100	94	88
		3	70	64	58	52	46
Hardwoods	ОН	1	18	12	6	1	1
Utility	CU	5	((17))	((11))	5	((†))	((†))
			<u>5</u>	<u>5</u>		<u>5</u>	5

Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

Includes Western and Mountain Hemlock.

Includes Western and Mountain Hemlock. Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

² WAC 458-40-19004.

Stumpage value per 8 lineal feet or portion thereof.

Stumpage value per 8 lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

Stumpage value per lineal foot.

³Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All these species are commonly referred to as "White Fir."

TABLE 19—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 10 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS Stumpage Values per Product Unit

Species Name and Product		Timber Quality		Hauling Distance Zone Number						
	Species Code	Code Number	1	2	3	4	5			
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	\$108	\$102	\$96	\$90	\$84			
Lodgepole Pine & Other Posts ²	LPP	1	0.20	0.20	0.20	0.20	0.20			
Pine Christmas Trees	PX	1	0.18	0.18	0.18	0.18	0.18			
Douglas-fir & Other Christmas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18			

¹Stumpage value per MBF Scribner scale. See conversion method table 2 WAC 458-40-19004.

²Stumpage value per 8 lineal feet or portion thereof.

Stumpage value per lineal foot.

WSR 84-05-023 **EMERGENCY RULES** DEPARTMENT OF REVENUE

[Order FT 83-8-Filed February 10, 1984]

- I. Don Burrows, director of the Department of Revenue, do promulgate and adopt at Olympia, the annexed rules relating to Stumpage values—Tables for January 1 through June 30, 1984, amending WAC 458-40-18711.
- I, Don Burrows, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is correction of computational error in the tables which would result in overpayment or underpayment of taxes due.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 82.01.060 and 84.33.071 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 10, 1984.

By John B. Conklin Forest Tax Supervisor

AMENDATORY SECTION (Amending Order FT-83-7, filed 12/30/83)

WAC 458-40-18711 STUMPAGE VALUES-TABLES FOR JANUARY 1 THROUGH JUNE 30, 1984. As required by RCW 84.33.071 the department has prepared tables which assign stumpage value rates for the various harvest types, which rates vary depending upon the stumpage value area, species, timber quality code number and hauling distance zone involved. Where the timber harvested is used to produce harvest type "special forest products" the value tables of this section shall establish the values for such special forest products.

The following stumpage value and special forest product value tables are hereby adopted for use during the period of January 1 through June 30, 1984.

TABLE 1—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 1 January 1 through June 30, 1984

OLD GROWTH FINAL HARVEST (100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

		Timber Quality	I	l Distance	lauling Zone 1	Number	
Species Name	Species Code	Code Number			3	4	5
Douglas-fir	DF	1	\$146	\$140	\$134	\$128	\$122
		2 3	107 89	101 83	95 77	89 71	83 65
Western Hemlock ²	WH	1	177	171	165	159	153
		2	129	123	117	111	105
		3	107	101	95	89	83
True Fir ³	TF	1	177	171	165	159	153
		2	129	123	117	111	105
		3	107	101	95	89	83
Western Redcedar4	RC	1	232	226	220	214	208
		2	168	162	156	150	144
		3	139	133	127	121	115
Sitka Spruce	SS	1	255	249	243	237	231
-		2	184	178	172	166	160
		3	152	146	140	134	128
Other Conifer	ОС	1	177	171	165	159	153
		2	129	123	117	111	105
		3	107	101	95	89	83
Red Alder	RA	1	45	38	31	24	17
Cottonwood	ВС	ī	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	8	8	8	8	8

Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004. Includes Western and Mountain Hemlock.

^aIncludes Alaska-cedar.

³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White

Pine, and Lodgepole Pine.

³Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

TABLE 2—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 1 January 1 through June 30, 1984

YOUNG GROWTH AND THINNING (less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Si	Species	Timber Quality Code	I		Hauling Zone 1	Number	
Species Name		Number	1	2	3	4	5
Douglas-fir	DF	1	\$167	\$160	\$ 153	\$146	\$139
· ·		2	122	115	108	101	94
		3	102	95	88	81	74
		4	90	83	76	69	62
Western Hemlock ²	WH	1	114	107	100	93	86
		2	85	78	71	64	57
		3	72	65	58	51	44
		4	64	57	50	43	36
True Fir3	TF	1	114	107	100	93	86
		2	85	78	71	64	57
		3	72	65	58	51	44
		4	64	57	50	43	36
Western Redcedar4	RC	1	115	108	101	94	87
		2	86	79	72	65	58
		3	73	66	59	52	45
Other Conifer	ос	1	114	107	100	93	86
		2	85	78	71	64	57
		3	72	65	58	51	44
	•	4	64	57	50	43	36
Red Alder	RA	1	45	38	31	24	17
Cottonwood	ВС	1	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	8	8	8	8	8

Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

Includes Western and Mountain Hemlock.

Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All

TABLE 3—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 1 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality		Hauling Distance Zone Number					
		Code Number	1	2	3	4	5		
Western Redcedar- Shake Blocks & Boards	RCS	1	\$248	\$ 242	\$ 236	\$ 230	\$224		
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	91	85	79	73	67		

TABLE 3—cont. Stumpage Values per Product Unit

Species Name and Product	Carrier.	Timber Quality Code Number	Hauling Distance Zone Number						
	Species Code		1	2	3	4	5		
Western Redcedar & Other Posts	RCP	1	0.20	0.20	0.20	0.20	0.20		
Douglas-fir Christ- mas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18		
True Fir & Other Christmas Trees	TFX	ı	0.40	0.40	0.40	0.40	0.40		

¹ Stumpage value per MBF net Scribner scale. See conversion method table 2 WAC 458-40-19004.

² Stumpage value per 8 lineal feet or portion thereof.

TABLE 4—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 2 January 1 through June 30, 1984

OLD GROWTH FINAL HARVEST (100 years of age or older)

		Timber Quality	I	I Distanœ	Hauling Zone 1	Number	
Species Name	Species Code	Code Number	1	2	3	4	5
Douglas-fir	DF	1	\$166	\$ 160	\$154	\$148	\$142
J		2	121	115	109	103	97
		3	101	95	89	83	77
Western Hemlock ²	WH	1	152	146	140	134	128
		2	111	105	99	93	87
		3	93	87	81	75	69
True Fir ³	TF	1	152	146	140	134	128
•		2	111	105	99	93	87
		3	93	87	81	75	69
Western Redcedar ⁴	RC	1	247	241	235	229	223
		2	178	172	166	160	154
		3	148	142	136	130	124
Sitka Spruce	SS	1	255	249	243	237	231
•		2 3	184	178	172	166	160
		3	152	146	140	134	128
Other Conifer	oc	1	152	146	140	134	128
		2	111	105	99	93	87
		3	93	87	81	75	69
Red Alder	RA	1	45	38	31	24	17
Cottonwood	BC	1	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	9	9	9	9	9

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

²Includes Western and Mountain Hemlock.

of these species are commonly referred to as "White Fir."
Includes Alaska-cedar.

³Stumpage value per lineal foot.

Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."
Includes Alaska-cedar.

TABLE 5—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 2 January 1 through June 30, 1984

YOUNG GROWTH AND THINNING (less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

	g	Timber Quality	I	F Distance	lauling Zone 1	√umber	
Species Name	Species Code	Code Number	1	2	3	4	5
Douglas-fir	DF	1	\$203	\$196	\$189	\$ 182	\$ 175
		2	147	140	133	126	119
		3	123	116	109	102	95
		4	108	101	94	87	80
Western Hemlock ²	WH	1	155	148	141	134	127
		2	114	107	100	93	86
		3	96	89	82	75	68
		4	85	78	71	64	57
True Fir ³	TF	1	155	148	141	134	127
		2	114	107	100	93	86
		3	96	89	82	75	68
		4	85	78	71	64	57
Western Redcedar ⁴	RC	1	115	108	101	94	87
		2	86	79	72	65	58
		3	73	66	59	52	45
Other Conifer	ос	1	155	148	141	134	127
		2	114	107	100	93	86
		3	96	89	82	75	68
		4	85	78	71	64	57
Red Alder	RA	1	45	38	31	24	17
Cottonwood	ВС	1	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	9	9	9	9	9

Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.
Includes Western and Mountain Hemlock.

TABLE 6-STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 2 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product		Timber Quality		Hauling Distance Zone Number						
	Species Code	Code Number	1	2	3	4	5			
Western Redcedar- Shake Blocks & Boards	RCS	1	\$ 248	\$ 242	\$ 236	\$ 230	\$224			
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	91	85	79	73	67			
Western Redcedar & Other Posts	RCP	1	0.20	0.20	0.20	0.20	0.20			

TABLE 6-cont. Stumpage Values per Product Unit

Species Name and	Species	Timber Quality	Hauling Distance Zone Number					
Product		Code Number	1	2	3	4	5	
Douglas-fir Christ- mas Tr ees	DFX	1	0.18	0.18	0.18	0.18	0.18	
True Fir & Other Christmas Trees	TFX	1	0.40	0.40	0.40	0.40	0.40	

Stumpage value per MBF net Scribner scale. See conversion method table 2 WAC 458-40-19004.

Stumpage value per 8 lineal feet or portion thereof.

Stumpage value per lineal foot.

TABLE 7—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 3 January 1 through June 30, 1984

OLD GROWTH FINAL HARVEST (100 years of age or older)

	Timber Quality					
Species Code	Code	1	2	3	4	5
DF	1	\$193	\$187	\$181	\$ 175	\$ 169
	2	140	134	128	122	116
	3	116	110	104	98	92
WH	1	166	160	154	148	142
	2	121	115	109	103	97
	3	101	95	89	83	77
TF	1	166	160	154	148	142
	2	121	115	109	103	97
	3	101	95	89	83	77
RC	1	249	243	237	231	225
	2	180	174	168	162	156
	3	149	143	137	131	125
SS	1	255	249	243	237	231
	2	184	178	172	166	160
	3	152	146	140	134	128
YC	1	1107	1101	1095	1089	1083
						762
	3	644	638	632	626	620
ос	1	166	160	154	148	142
						97
_	3	101	95	89	83	77
RA	1	45	38	31	24	17
ВС	1	60	53	46	39	32
ОН	1	49	42	35	28	21
HU	5	5	5	5	5	5
CU	5	6	6	6	6	6
	Code DF WH TF RC SS YC OC RA BC OH HU	Species Code Code Code Code Number	Species Code Code Code Number 1 1 1 1 1 1 1 1 1	Species Code Code Code Code Number 1 2	Species Code Code Code Code Number 1 2 3 3 3 3 3 3 3 3 3	Distance Zone Number Code Number Code Number 1 2 3 4

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.
Includes Western and Mountain Hemlock.

³Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."
Includes Alaska-cedar.

Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

TABLE 8—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 3 January 1 through June 30, 1984

YOUNG GROWTH AND THINNING (less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name		Timber Quality Code Number					
	Species Code		1	2	3	4	5
Douglas-fir	DF	1	\$209	\$202	\$195	\$188	\$181
		2	152	145	138	131	124
		3	127	120	113	106	99
		4	112	105	98	91	84
Western Hemlock ²	WH	1	160	153	146	139	132
			117	110	103	96	89
		2 3	98	91	84	77	70
		4	87	80	73	66	59
True Fir ³	TF	1	160	153	146	139	132
		2	117	110	103	96	89
		3	98	91	84	77	70
		4	87	80	73	66	59
Western Redcedar ⁴	RC	1	115	108	101	94	87
		2	86	79	72	65	58
		3	73	66	59	52	45
Other Conifer	oc	1	160	153	146	139	132
		2	117	110	103	96	89
		3	98	91	84	77	70
		4	87	80	73	66	59
Red Alder	RA	1	45	38	31	24	17
Cottonwood	ВС	1	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	6	6	6	6	-

Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

Includes Western and Mountain Hemlock.

Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

TABLE 9—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 3 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product	_	Timber Quality Code Number	Hauling Distance Zone Number					
	Species Code		1	2	3	4	5	
Western Redcedar- Shake Blocks & Boards	RCS	1	\$ 201	\$ 195	\$ 189	\$ 183	\$177	
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	75	69	63	57	51	
Western Redcedar & Other Posts	RCP	1	0.20	0.20	0.20	0.20	0.20	

TABLE 9-cont. Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number					
			1	2	3	4	5	
Douglas-fir Christ- mas Trees ³	DFX	1	0.18	0.18	0.18	0.18	0.18	
True Fir & Other Christmas Trees	TFX	1	0.40	0.40	0.40	0.40	0.40	

Stumpage value per MBF net Scribner scale. See conversion method table 2 WAC 458-40-19004.

Stumpage value per 8 lineal feet or portion thereof

TABLE 10-STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 4 January 1 through June 30, 1984

OLD GROWTH FINAL HARVEST (100 years of age or older)

Species Name		Timber Quality Code Number	Hauling Distance Zone Number				
	Species Code			2	3	4	5
Douglas-fir	DF	1	\$228	\$222	\$216	\$210	\$204
Dong.au II.		2	164	158	152	146	140
		3	136	130	124	118	112
Western Hemlock ²	WH	1	176	170	164	158	152
		2	128	122	116	110	104
		3	106	100	94	88	82
True Fir ³	TF	1	176	170	164	158	152
		2	128	122	116	110	104
		3	106	100	94	88	82
Western Redcedar	RC	1	249	243	237	231	225
		2	180	174	168	162	156
		3	149	143	137	131	125
Sitka Spruce	SS	1	255	249	243	237	231
•		2	184	178	172	166	160
		3	152	146	140	134	128
Noble Fir	NF	1	285	279	273	267	261
		2	205	199	193	187	181
		3	170	164	158	152	146
Alaska-cedar	YC	1	1107	1101	1095	1089	1083
		2	786	780	774	768	762
		3	644	638	632	626	620
Other Conifer	oc	1	176	170	164	158	152
		2	128	122	116	110	104
		3	106	100	94	88	82
Red Alder	RA	1	45	38	31	24	17
Cottonwood	ВС	1	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	5

Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.
Includes Western and Mountain Hemlock.

²Stumpage value per 8 lineal feet or portion thereof. ³Stumpage value per lineal foot.

Includes Pacific Silver Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

TABLE 11—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 4 January 1 through June 30, 1984

YOUNG GROWTH AND THINNING (less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species	Timber Quality Code	Hauling Distance Zone Number					
Name		Number	1	2	3	4	5	
Douglas-fir	DF	1	\$222	\$215	\$208	\$201	\$194	
•		2	161	154	147	140	133	
		3	134	127	120	113	106	
		4	118	111	104	97	90	
Western Hemlock ²	WH	1	145	138	131	124	117	
		2	106	99	92	85	78	
		3	89	<i>82</i>	75	68	61	
		4	79	72	65	58	51	
True Fir ³	TF	1	145	·138	131	124	117	
		2	106	99	92	85	78	
		3	89	82	75	68	61	
		4	79	72	65	58	51	
Western Redcedar4	RC	1	115	108	101	94	87	
		2	86	79	72	65	58	
		3	73	66	59	52	45	
Other Conifer	oc	1	206	199	192	185	178	
		2	150	143	136	129	122	
		3	125	118	111	104	97	
		4	110	103	96	89	82	
Red Alder	RA	1	45	38	31	24	17	
Cottonwood	BC	1	60	53	46	39	32	
Other Hardwoods	ОН	1	49	42	35	28	21	
Hardwood Utility	HU	5	5	5	5	5	5	
Conifer Utility	CU	5	5	5	5	5	5	

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.
Includes Western and Mountain Hemlock.

TABLE 12—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 4 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species	C	Timber Quality Code		Hauling Distance Zone Number						
Name and Product	Species Code	Number	1	2	3	4	5			
Western Redcedar- Shake Blocks & Boards	RCS	1	\$230	\$224	\$ 218	\$212	\$206			
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	85	79	73	67	61			
Western Redcedar &	RCP	1	0.20	0.20	0.20	0.20	0.20			

TABLE 12—cont. Stumpage Values per Product Unit

Species Name and	Species	Timber Quality Code	Hauling Distance Zone Number				
Product		Number	1	2	3	4	5
Douglas-fir Christ- mas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18
True Fir & Other Christmas Trees	TFX	ı	0.40	0.40	0.40	0.40	0.40

Stumpage value per MBF net Scribner scale. See conversion method table 2 WAC 458-40-19004.
Stumpage value per 8 lineal feet or portion thereof.

TABLE 13—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 5 January 1 through June 30, 1984

OLD GROWTH FINAL HARVEST (100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

		Timber Quality	I	l Distance	Hauling Zone N	Number	
Species Name	Species Code	Code Number	1	2	3	4	5
Douglas-fir	DF	1	\$297	\$291	\$285	\$279	\$273
		2	214	208	202	196	190
		3	178	172	166	160	154
Western Hemlock ²	WH	1	166	160	154	148	142
		2	121	115	109	103	97
		3	101	95	89	83	77
True Fir ³	TF	1	166	160	154	148	142
		2	121	115	109	103	97
•		3	101	95	89	83	77
Western Redcedar4	RC	1	249	243	237	231	225
		2	180	174	168	162	156
		3	149	143	137	131	125
Sitka Spruce	SS	1	255	249	243	237	231
		2	184	178	172	166	160
		3	152	146	140	134	128
Noble Fir	NF	1	285	279	273	267	261
		2	205	199	193	187	181
		3	170	164	158	152	146
Other Conifer	oc	1	166	160	154	148	142
		2	121	115	109	103	97
		3	101	95	89	83	77
Red Alder	RA	1	45	38	31	24	17
Cottonwood	ВС	1	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	5

Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

Includes Alaska-cedar.

³Stumpage value per lineal foot.

Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

Includes Western and Mountain Hemlock.

Includes Pacific Silver Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as 'White Fir.'

Includes Alaska-cedar.

TARLE 14—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 5

January 1 through June 30, 1984

YOUNG GROWTH AND THINNING (less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species	Caraira	Timber Quality Code	I	F Distanœ	lauling Zone N	Number	
Species Name	Species Code	Number	1	2	3	4	5
Douglas-fir	DF	1	\$208	\$201	\$194	\$187	\$180
		2	151	144	137	130	123
		3	126	119	112	105	98
		4	111	104	97	90	83
Western Hemlock ²	WH	1	145	138	131	124	117
		2 3	106	99	92	85	78
			89	82	75	68	61
		4	79	72	65	58	51
True Fir ³	TF	1	145	138	131	124	117
		2	106	99	92	85	78
		3	89	82	75	68	61
		4	79	72	65	58	51
Western Redcedar4	RC	1	115	108	101	94	87
		2 3	86	79	72	65	58
		3	73	66	59	52	45
Other Conifer	oc	1	145	138	131	124	117
		2	106	99	92	85	78
		3	89	82	75	68	61
		4	79	72	65	58	51
Red Alder	RA	1	45	38	31	24	17
Cottonwood	ВС	1	60	53	46	39	32
Other Hardwoods	ОН	1	49	42	35	28	21
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	5

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

TABLE 15—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 5 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Hauling Distance

Timber

Species Name and	Cassies	Quality Code			Zone Number			
Product	Species Code	Number	1	2	3	4	5	
Western Redeedar- Shake Blocks & Boards	RCS	1	\$ 210	\$204	\$ 198	\$ 192	\$ 186	
Western Redcedar Flatsayn & Shingle Blocks	RCF	1	78	72	66	60	54	
Western Redcedar & Other Posts	RCP	ı	0.20	0.20	0.20	0.20	0.20	
Douglas-fir Christ- mas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18	

TABLE 15-cont. Stumpage Values per Product Unit

Species Name and	Species	Timber Quality			ling Dis ne Num		
Product		Number	1	2	3	4	5

True fir & Other Christmas Trees

0.40 0.40 0.40

³Stumpage value per lineal foot.

TABLE 16—STUMPAGE VALUE TABLE STUMPAGE VALUE AREAS 6, 7, 8, AND 9 January 1 through June 30, 1984

MERCHANTABLE SAWTIMBER, ALL AGES

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

		Timber Quality	Di				
Species Name	Species Code	Code Number	1	2	3	4	5
Ponderosa Pine	PP	1 2	\$132 97	\$126 91	\$120 85	\$114 79	\$108 73
Douglas-fir	DF	1	93	87	81	75	69
Western Larch	WL	1	93	87	81	75	69
Western Hemlock ²	WE	1	62	56	50	44	38
True fir ³	TF	1	62	56	50	44	38
Engelmann Spruce	ES	1	63	57	51	45.	39
Western White Pine	WP	1	104	98	92	86	80
Western Redcedar	RC	1	110	104	98	92	86
Lodgepole Pine	LP	1	40	34	28	22	16
Hardwoods	ОН	1	18	12	6	1	1
Utility	CU	5	((21)) <u>9</u>	((15)) <u>9</u>	9	((3)) <u>9</u>	((†)) <u>9</u>

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

TABLE 17—STUMPAGE VALUE TABLE STUMPAGE VALUE AREAS 6, 7, 8, AND 9 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and	Sanaina	Timber Quality	Hauling Distance Zone Number				
Product	Species Code	Code Number	1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	\$ 99	\$ 93	\$ 87	\$ 81	\$ 75
Lodgepole Pine & Other Posts	LPP	1	0.20	0.20	0.20	0.20	0.20

Includes Western and Mountain Hemlock.

Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

⁴Includes Alaska-cedar.

¹Stumpage value per MBF net Scribner scale. See conversion method table 2 WAC 458-40-19004.

Stumpage value per 8 lineal feet or portion thereof.

Includes Western and Mountain Hemlock.

³Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir."

TABLE 17—cont.
Stumpage Values per Product Unit

Species Name and	Species	Timber Quality Code		Hauling Distance Zone Number			
Product		Number	1	2	3	4	5
Pine Christmas Trees	PX	1	0.18	0.18	0.18	0.18	0.18
Douglas-fir & Other Christmas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18

¹Stumpage value per MBF net Scribner scale. See conversion method table ₂ WAC 458-40-19004.

Stumpage value per 8 lineal feet or portion thereof.

TABLE 18—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 10 January 1 through June 30, 1984

MERCHANTABLE SAWTIMBER, ALL AGES

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species	Species	Timber Quality Code	D	H istance	lauling Zone l	Number	
Name		Number	1	2	3	4	5
Ponderosa Pine	PP	1	\$147	\$141	\$135	\$129	\$123
		2	121	115	109	103	97
		3	105	99	93	87	81
Douglas-fir	DF	1	146	140	134	128	122
_		2	119	113	107	101	95
		3	55	49	43	37	31
Western Larch	WL	1	146	140	134	128	122
		2 3	119	113	107	101	95
		3	55	49	43	37	31
Western Hemlock ²	WH	1	145	139	133	127	121
		2	112	106	100	94	88
		3	70	64	58	52	46
True Fir ³	TF	1	145	139	133	127	121
		2	112	106	100	94	88
		3	70	64	58	52	46
Other Conifer	oc	1	145	139	133	127	121
		2	112	106	100	94	88
		3	70	64	58	52	46
Hardwoods	ОН	1	18	12	6	1	1
Utility	CU	5	((17))	((11))	5	((1))	((1)
			<u>5</u>	<u>5</u>		<u>5</u>	

¹Log scale conversions between Western and Eastern Washington. See conversion method tables 4 and 5 WAC 458-40-19004.

TABLE 19—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 10 January 1 through June 30, 1984

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and	Ci	Timber Quality Code					
Product	Species Code	Number	1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	\$108	\$ 102	\$96	\$ 90	\$84
Lodgepole Pine & Other Posts	LPP	1	0.20	0.20	0.20	0.20	0.20
Pine Christmas Trees	PX	1	0.18	0.18	0.18	0.18	0.18
Douglas-fir & Other Christmas Trees	DFX	1	0.18	0.18	0.18	0.18	0.18

¹Stumpage value per MBF Scribner scale. See conversion method table 2 WAC 458-40-19004.

Stumpage value per 8 lineal feet or portion thereof.

WSR 84-05-024 ADOPTED RULES DEPARTMENT OF PERSONNEL (Personnel Board)

[Order 198—Filed February 10, 1984]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA 98504, that it does adopt the annexed rules relating to shift differential provisions and compensation, amending WAC 356-15-060.

This action is taken pursuant to Notice No. WSR 84-02-029 filed with the code reviser on December 30, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 41.06.150 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 9, 1984.

By Leonard Nord Secretary

AMENDATORY SECTION (Amending Order 98, filed 1/13/77, effective 2/13/77)

WAC 356-15-060 SHIFT DIFFERENTIAL PROVISIONS AND COMPENSATION. (1) Any employee working a shift shall be paid a shift premium (as

Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

Stumpage value per lineal foot.

Includes Western and Mountain Hemlock.

³Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All these species are commonly referred to as "White Fir."

Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

Stumpage value per lineal foot.

shown in the shift differential schedule) under any one of the following conditions:

- (a) When her/his scheduled working hours extend before 6 a.m. or beyond 6 p.m., she/he shall receive the premium rate for those hours that so extend.
- (b) The premium rate shall be paid for all hours worked on a scheduled evening or night shift. Evening or night shifts are defined as those in which four or more hours of a scheduled shift extend beyond 6 p.m. or in which three or more hours of a scheduled shift are completed prior to 6 a.m.
- (2) Monthly shift differential rates: In cases where shift differential hours are regularly scheduled over a year, agencies may pay shift differential at a monthly rate which is equal for all months of the year. Such monthly rates shall be calculated by dividing twelve into the amount of shift premium an employee would earn in a year if the hourly rules in subsection (1) of this ((rule)) section were applied. This option is granted to simplify bookkeeping and is not authorized to establish shift differential rates higher or lower than those set by the board.
- (3) Shift differential and overtime: When a scheduled work period employee works overtime on a shift which qualifies for shift differential, her/his overtime shall be computed as one-and-one-half times her/his basic salary and shift differential combined.
- (4) Payment during leave periods: Employees eligible for shift differential will receive the shift differential rate for authorized periods of paid leave, i.e., vacation leave, sick leave, military leave, holiday leave, etc.

((SHIFT DIFFERENTIAL SCHEDULE (Effective 7-1-75)

CODE	TITLE	HOURLY PREMIUM
5630-5634 0628-0641	Registered Nurses Liquor Store Personnel/	23 ¢
	working in the stores	23 ¢
	All other classes	20¢))
SHIFT DIFFE	RENTIAL SCHEDULE (Effective 7-1-84)	50¢ per hour

WSR 84-05-025 EMERGENCY RULES DEPARTMENT OF FISHERIES

[Order 84-07-Filed February 10, 1984]

- I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.
- I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the harvestable surplus of adult pacific hake has been taken.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 10, 1984.

By Russell W. Cahill

for William R. Wilkerson

Director

NEW SECTION

WAC 220-48-01500H PACIFIC WHITING TRAWL CLOSURE. Nothwithstanding the provisions of WAC 220-48-015, 220-48-017, and 220-48-019, effective immediately until further notice it is unlawful to fish for or possess Pacific whiting taken for commercial purposes from Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 24B, 24C, or 26A.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-48-01500G PACIFIC HAKE TRAWL OPENING. (83-213)

WSR 84-05-026 ADOPTED RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 84-5-Filed February 14, 1984]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Reentry to common schools—Educational clinic and other students, chapter 392–184 WAC.

This action is taken pursuant to Notice No. WSR 84-02-023 filed with the code reviser on December 29, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 28A.97-.030 and is intended to administratively implement that

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 9, 1984.

By Frank B. Brouillet

Superintendent of Public Instruction

Chapter 392–184 WAC
REENTRY TO COMMON SCHOOLS—EDUCATIONAL CLINIC AND OTHER STUDENTS

NEW SECTION

WAC 392-184-003 AUTHORITY. The authority for this chapter is RCW 28A.97.030 which authorizes the superintendent of public instruction to adopt rules relating to the grade level standing of a prior common school dropout who reenters the common school system.

NEW SECTION

WAC 392-184-005 PURPOSE. The purpose of this chapter is to establish policies and procedures governing the reentry to the common school system of a prior common school dropout.

NEW SECTION

WAC 392-184-010 DEFINITION—COMMON SCHOOL DROPOUT. As used in this chapter, the term common school dropout includes all students who leave school for reasons other than a lawfully imposed expulsion, including the period of time a student is subject to a lawfully imposed suspension.

NEW SECTION

WAC 392-184-015 REENTRY TO COMMON SCHOOLS—GENERAL PROVISION—GRADE LEVEL. A common school dropout of common school age shall be entitled to reenter the common school system at the grade level appropriate to such individual's ability and, in the case of a high school student, with the credits previously earned toward graduation.

NEW SECTION

WAC 392-184-020 REENTRY TO COMMON SCHOOLS—EDUCATIONAL CLINIC STUDENT. A common school dropout of common school age who has attended a certified educational clinic shall be entitled to reenroll in the common school system. In addition, any such student shall be entitled to be placed at the class level in which he or she would have been but for having dropped out and to graduate with the class, notwithstanding any loss of credits prior to reentry, if each of the following conditions is met:

- (1) The student has attended a certificated educational clinic for no less than ninety, sixty minute instructional hours;
- (2) The student has reenrolled in the common school system no later than the commencement of the next regular school year semester or trimester, as the case may be, following his or her last day of attendance at a certified educational clinic;
- (3) The student possesses the ability to perform academically at a passing level at the grade level of placement as determined pursuant to WAC 392-184-025;

- (4) The student has earned credits following his or her reentry at the normal rate;
- (5) The student has been enrolled at least two of the three grades nine through eleven at a common school or approved private school, or a combination of both; and
- (6) The student has commenced and satisfactorily completed his or her last full school year immediately preceding high school graduation at a public high school, or a combination of public high schools.

NEW SECTION

WAC 392-184-025 DETERMINATION GRADE LEVEL UPON REENTRY—EDUCATION CLINIC STUDENT. The determination pursuant to WAC 392-184-020 of a student's level of academic ability and grade level of placement at the time of a former educational clinic student's reentry shall be made by the principal of the common school of enrollment or such other school district authority as may be designated pursuant to school district policy. Such determination shall be made by the principal or other designated official only after consultation with one or more representatives of the educational clinic which the student last attended and shall be based exclusively upon the principal's or other designated official's professional judgment of the following:

- (1) The recommendations of the clinic representative(s);
- (2) The student's performance while enrolled in the clinic; and
- (3) The student's academic ability as documented by the results of standardized tests recently administered by the clinic or school district, or both.

WSR 84-05-027 PROPOSED RULES DEPARTMENT OF REVENUE

[File February 14, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning WAC 458-20-114.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Tuesday, March 20, 1984.

The authority under which these rules are proposed is RCW 82.32.300.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Tuesday, March 13, 1984.

This notice is connected to and continues the matter in Notice No. WSR 84-02-045 filed with the code reviser's office on January 3, 1984.

Dated: February 14, 1984
By: Matthew J. Coyle
Deputy Director

WSR 84-05-028 NOTICE OF PUBLIC MEETINGS COMMUNITY COLLEGE DISTRICT TWELVE

[Memorandum—February 10, 1984]

Shown below is the revised 1984 regular meeting schedule for the Community College District Twelve board of trustees. At their regular meeting, the trustees did vote to change the meeting time for regular meetings from 7:30 p.m. to 7:00 p.m., beginning March 8, 1984, through December 13, 1984.

<u>DATE</u>	LOCATION & TIME
January 12	Centralia College
•	7:30 p.m.
February 9	Centralia College
	7:30 p.m.
March 8	Olympia Tech
	7:00 p.m.
April 12	Olympia Tech
•	7:00 p.m.
May 10	Centralia College
•	7:00 p.m.
June 14	Centralia College
	7:00 p.m.
July 12	Olympia Tech
•	7:00 p.m.
August 16	Olympia Tech
-	7:00 p.m.
September 13	Centralia College
•	7:00 p.m.
October 11	Centralia College
	7:00 p.m.
November 8	Olympia Tech
	7:00 p.m.
December 13	Olympia Tech
	7:00 p.m.

Special meetings are at call of the chairman of the

Board subcommittees are assigned on an ad hoc basis at the direction of the chairman of the board in consultation with the district president.

WSR 84-05-029 PROPOSED RULES STATE EMPLOYEES INSURANCE BOARD

[Filed February 15, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Employees Insurance Board intends to adopt, amend, or or repeal rules concerning:

New	WAC 182-08-195	Retroactive employer and employee con- tributions restricted.
Amd	WAC 182-12-125	
Rep	WAC 182-08-140	New dependents' life coverage after enrollment.

Rep WAC 182-08-150 Reduction or cancellation of optional insurance coverages;

that the agency will at 9:00 a.m., Friday, April 13, 1984, in the Department of Transportation, Materials Lab Building, Tumwater, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 41.05 RCW.

The specific statute these rules are intended to implement is RCW 41.05.050 and 41.05.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 10, 1984.

Dated: February 15, 1984

By: C. H. Shay

Group Insurance Analyst

STATEMENT OF PURPOSE

WAC 182-08-195 Retroactive employer and employee contributions restricted; 182-12-125 Employee or dependents become ineligible for state group coverage; 182-08-140 New dependents' life coverage after enrollment; and 182-08-150 Reduction or cancellation of optional insurance coverages.

Statutory Authority: Chapter 41.05 RCW.

WAC 182-08-195 is a new rule which restricts agency withdrawals from the SEIB revolving fund for the purpose of limiting retroactive insurance coverage cancellations. WAC 182-12-125 sets forth the conversion privileges under SEIB plans. The change is to correctly state that only the medical and life plans have a conversion privilege. WAC 182-08-140 and 182-08-150 are being repealed as the SEIB determines that these are unnecessary WAC rules.

Responsible for Drafting, Implementation and Enforcement: C. H. Shay, Group Insurance Analyst, Department of Personnel, Insurance Benefits Division, 497 Tyee Drive, Tumwater, WA 98504, Mailstop QS-11, Phone 753-3096, scan 234-3096.

Proposed by: State Employees Insurance Board.

Agency comments: None.

Not necessary due to federal law or federal/state court action.

NEW SECTION

WAC 182-08-195 RETROACTIVE EMPLOYER AND EMPLOYEE CONTRIBUTIONS RESTRICTED. Withdrawals from the SEIB revolving fund will not be allowed without written approval of the trustee or his designee. Withholding of previously paid employee or employer contribution from transmittals will be similarly restricted.

AMENDATORY SECTION (Amending Order 5646, filed 2/9/76)

WAC 182-12-125 EMPLOYEE OR DEPENDENTS BECOME INELIGIBLE FOR STATE GROUP COVERAGE. ((All of the state)) The state's medical and life plans have a conversion privilege. However, under the individual conversion plans, coverage and/or premiums will be different than the state plan with the same carrier. Persons wishing to convert must enroll in the appropriate conversion within 31 days after state group coverage ends. If a person converts within 31 days, conversion coverage will be effective the day after state coverage ends.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 182-08-140 NEW DEPENDENTS' LIFE COVERAGE AFTER ENROLLMENT.
- (2) WAC 182-08-150 REDUCTION OR CANCELLATION OF OPTIONAL INSURANCE COVERAGES.

WSR 84-05-030 ATTORNEY GENERAL OPINION Cite as: AGO 1984 No. 5

[February 14, 1984]

INDUSTRIAL INSURANCE—WORKERS' COMPENSATION—COVERAGE—ATHLETES—APPLICABILITY OF INDUSTRIAL INSURANCE ACT TO CERTAIN ATHLETES

- (1) Professional athletes who enter into contracts with, and are paid by, athletic organizations domiciled outside of the State of Washington are, nevertheless, covered by the Washington industrial insurance (i.e., workers' compensation) system when they are assigned to, and are playing for, an organization or team domiciled in Washington.
- (2) Hockey players under contract with a Washington domiciled "amateur" hockey league team are not covered by the Washington industrial insurance system if the only remuneration they receive is limited to, and is the nature of, travel expense reimbursement or coverage and no other form of compensation is paid; if, however, the players are receiving some further compensation for their services, as well, they would be "workers" and, therefore, covered.
- (3) Industrial insurance coverage for semiprofessional athletes will be dependent upon the particular facts of each case from the standpoint of whether or not the athletes are compensated for their services as such so as to cause them to be "workers" within the meaning of RCW 51.08.180.

Requested by:

Honorable Sam Kinville
Director
Department of Labor and Industries
General Administration Building
Olympia, Washington 98504

WSR 84-05-031 NOTICE OF PUBLIC MEETINGS HOUSING AUTHORITY OF SUNNYSIDE

[Memorandum—February 13, 1984]

The Housing Authority of Sunnyside, Washington has changed its regular meeting date to the third Tuesday of each month at 7:00 a.m. Regular meetings will be held at the Housing Authority Community Room at 16th and Federal Way, Sunnyside, Washington.

WSR 84-05-032 PROPOSED RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 16, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning new chapter 296-93 WAC, standards for material lifts. These rules set installation, construction, and maintenance standards for a new category of conveyances. "Material lifts" currently are considered "elevators" under the elevator law, chapter 70.87 RCW. Consequently, they must currently be constructed in accordance with the rules for elevators. Because elevators carry people, the rules for construction and installation of elevators are extremely strict to ensure safety. Material lifts are not designed to carry people, and the elevator rules require more safety than is necessary for them. The new proposed rules will authorize material lifts to be constructed and installed in this state without the necessity of meeting the strict safety requirements of the elevator rules. The new rules will also enable businesses to purchase a conveyance for materials that will be substantially less expensive than an elevator. Although the new rules are less strict than elevator rules, the department believes the rules will ensure that persons working on or near the material lifts will be as safe as those working on or riding elevators;

that the agency will at 9:00 a.m., Tuesday, March 27, 1984, in Conference Room A, 300 West Harrison, Seattle, WA 98119, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 27, 1984.

The authority under which these rules are proposed is RCW 70.87.030.

The specific statute these rules are intended to implement is RCW 70.87.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 27, 1984.

Written or oral submission may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

William T. O'Hara 300 West Harrison, Room 508 Seattle, WA 98119 (206) 281-5578 Dated: February 16, 1984 By: Sam Kinville

Director

STATEMENT OF PURPOSE

Title and Number of Rule Sections or Chapters: Chapter 296-93 WAC, Standards for material lifts.

Statutory Authority: RCW 70.87.030.

Specific Statute that Rules are Intended to Implement: RCW 70.87.030.

Summary of the Rules: These rules set installation, construction, and maintenance standards for a new category of conveyances. "Materials lifts" currently are considered "elevators" under the elevator law, chapter 70.87 RCW. Consequently, they must currently be constructed in accordance with the rules for elevators. Because elevators carry people, the rules for construction and installation of elevators are extremely strict to ensure safety. Material lifts are not designed to carry people, and the elevator rules require more safety than is necessary for them. The new proposed rules will authorize material lifts to be constructed and installed in this state without the necessity of meeting the strict safety requirements of the elevator rules. The new rules will also enable businesses to purchase a conveyance for materials that will be substantially less expensive than an elevator. Although the new rules are less strict than the elevator rules, the department believes the rules will ensure that persons working on or near the material lifts will be as safe as those working on or riding elevators.

Reasons Supporting the Proposed Rules: Currently, material lifts are required to meet the rules for elevators. The elevator rules are more strict than is necessary to ensure that material lifts are safe for persons and property. The proposed rules set standards designed specifically for the construction and installation for material lifts. The proposed rules will allow material lifts to be less expensive, for both the manufacturers and consumers.

The Agency Person Responsible for the Drafting, Implementation and Enforcement of the Rules: William T. O'Hara, 300 West Harrison, #508, Seattle, WA 98119, (206) 281-5578.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rules: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal matters Pertaining to the Rules: Chapter 70.87 RCW requires all "conveyances" to meet standards set by the department. "Conveyance" as defined in RCW 70.87.010 does not include material lifts by name, but the broad definition clearly covers material lifts. Because material lifts were not specifically named as a category of conveyances, the department has placed them in the category of elevators. The proposed rules will lower costs for both manufactures and consumers because material lifts are much more simple, and have less stringent safety requirements, than do elevators.

The rules are not necessary to comply with a federal law or a federal state court decision.

Any Other Information that may be of Assistance in Identifying the Rules or their Purpose: None.

A small business impact statement is not required because the rules do not have a negative fiscal impact. The rules will lower costs for manufacturers and consumers.

Chapter 296-93 WAC MATERIAL LIFTS

NEW SECTION

WAC 296-93-010 SCOPE. This chapter sets the requirements for construction, installation, and operation of material lifts. The purpose of this chapter is to allow certain conveyances that meet the definition of "elevator" in chapter 70.87 RCW, but that are designed solely to transport materials and equipment, to be constructed in accordance with standards less stringent and costly than those contained in ANSI A17.1. The standards contained in this chapter ensure, to the extent possible, that no persons will ride material lifts, and that persons working near the material lifts are free from dangers posed by the operation or failure of the material lifts.

"Material lift" means a fixed stationary conveyance that:

- (1) Has a car or platform that moves in guides;
- (2) Serves two or more floors or landings of a building or structure;
- (3) Has a vertical rise of no less than five feet and no more than sixty feet;
 - (4) Has a maximum speed of fifty feet per minute;
- (5) Is an isolated self-contained lift and is not a part of a conveying system;
 - (6) Travels in an inclined or vertical, but not horizontal, direction;
- (7) Is operated only by, or under the direct supervision of, a designated operator; and
- (8) Is installed in a commercial or industrial area, and not in an area that is open to access by the general public.

This chapter does not cover conveyances described in ANSI B20 that do not have a car or platform but instead are provided with rollers, belts, tracks, power conveyors, or similar carrying surfaces or means of loading.

NEW SECTION

WAC 296-93-020 HOISTWAY ENCLOSURES. (1) Local codes and ordinances, where they exist, govern the fire-resistance requirements for hoistway enclosures.

- (2) Unless a local jurisdiction's fire-resistance codes or ordinances otherwise require, a hoistway shall be enclosed to a height of seven feet above each floor or landing and above the treads of any adjacent stairways. Adjacent to any counterweights, the enclosure must extend the full height of the floor and extend eight inches past the counterweight raceway. The enclosing material shall be solid or have openings that do not exceed two inches in diameter.
- (3) A hoistway enclosure shall be supported and braced so that it does not deflect over one inch when it is subjected to a force of one hundred pounds applied perpendicularly at any point.

NEW SECTION

WAC 296-93-030 HOISTWAY ENCLOSURE GATES AND DOORS. The openings at each material lift landing must have gates or doors that guard the full width of the opening. A hoistway door shall be vertically sliding, biparting, counter-balanced, or horizontally swinging or sliding. Gates and doors must meet the following requirements:

(1) A balanced type vertically sliding hoistway gate must extend from not more than two inches from the landing threshold to not less than sixty-six inches above the landing threshold.

- (2) A gate must be solid or openwork of a design that will reject a ball two inches in diameter. A gate shall be located so that the distance from the hoistway face of the gate to the hoistway edge of the landing sill is not more than two and one-half inches. A gate shall be designed and guided so that it will withstand a lateral pressure of one hundred pounds applied at approximately its center without breaking or being permanently deformed and without displacing the gate from its guides or tracks.
- (3) Hoistway gates or doors shall have a combination mechanical lock and electric contact, which shall prevent operation of the material lift by the normal operating devices unless the door or gate is closed.

NEW SECTION

WAC 296-93-040 HOISTWAYS THAT DO NOT EXTEND TO THE LOWEST AREA OF A BUILDING OR STRUCTURE. If the space directly below a material lift hoistway is not permanently secured against access, the following requirements apply:

(1) The material lift counterweights shall be provided with safeties.

(2) The cars and counterweights shall be provided with spring or oil buffers that conform to the following:

(a) Spring buffers shall be provided for material lifts.

- (b) Spring buffers shall be designed and installed so that they will not be fully compressed when struck either by the car carrying its rated load or by the counterweight when the car or the counterweight is moving at the following speeds:
- (i) The tripping speed of the governor if the safety is operated by a governor.
- (ii) One hundred twenty-five percent of the rated speed if the safety is not operated by a governor.
- (3) The car and counterweight-buffer supports shall be sufficiently strong to withstand, without permanent deformation, the impact resulting from engagement of the buffer at the following speeds:
- (a) The tripping speed of the governor with the rated capacity, if the safety is operated by a governor.
- (b) One hundred twenty-five percent of the rated speed if the safety is not operated by a governor.

NEW SECTION

WAC 296-93-050 DRIVING MACHINES AND EQUIP-MENT. A material hoist shall use a winding drum, traction, direct plunger, hydraulic, roped or chained hydraulic, rack and pinion, roller chain drive, scissors, or screw-type driving machine.

- (1) Driving machines located overhead shall be secured to and supported on or from the top of overhead beams or floor. Suspension of a driving machine by hooks, cables, chains, or similar devices is prohibited.
- (2) The diameter of drive sheaves for traction machines may not be less than thirty times the diameter of the hoisting cables. The diameter of all other sheaves of a traction machine may be not less than twenty-one times the diameter of the hoisting cables.
- (3) The driving machine and hoisting equipment for each material lift shall be inside enclosures and accessible for maintenance. A safe means of access shall be provided to each material lift's driving machine and equipment.

NEW SECTION

WAC 296-93-060 HYDRAULIC MATERIAL LIFTS. Hydraulic material lifts shall be equipped with automatically operated anticreep leveling devices. These leveling devices shall maintain the floor of the material lift car to within one inch of the floor level of the landing.

NEW SECTION

WAC 296-93-070 CAR ENCLOSURES. A material lift car that serves more than one landing shall be enclosed with solid panels or openwork that will reject a two-inch ball. The enclosure must extend to a height of at least six feet from the floor on each side on which there is no hoistway door or gate, except that on the side of the car that is next to the counterweight runway, the enclosure shall extend to the car top or underside of car crosshead and shall extend six inches on each side of the counterweight runway.

NEW SECTION

WAC 296-93-080 RUNNING CLEARANCE. The running clearance between the car sill and a hoistway face shall not exceed two inches.

NEW SECTION

WAC 296-93-090 CAR AND COUNTERWEIGHT GUIDES. Car and counterweight guides shall be securely fastened and may not deflect more than one-eighth inch. Guide rails must be sufficiently strong to withstand, without deformation, the application of the safety when stopping the car at the rated speed with the rated load.

NEW SECTION

WAC 296-93-100 CAR LOADING. Car frame and platforms shall be designed to withstand the impact of the gross loading imposed during loading and unloading.

NEW SECTION

WAC 296-93-110 CAR DOORS AND GATES. (1) Car doors or gates are required at each entrance to a material lift car.

- (2) Car doors or gates may be collapsible, horizontal sliding, or vertical sliding.
- (3) Gates, except collapsible gates, shall be solid or openwork of a design that rejects a ball two inches in diameter. A gate shall be sufficiently strong to withstand a lateral pressure of one hundred pounds applied at approximately its center, without breaking or being permanently deformed and without being displaced from the guides or tracks.
- (4) Car doors and gates when fully closed shall protect the full width of the car entrance opening. When closed, a car door shall extend from the car floor to a height of not less than sixty-six inches above the car floor. A vertically sliding gate shall extend from a point not more than one inch above the car floor to a point not less than sixty-six inches above the car floor.
- (5) Car doors and gates of material lifts shall be equipped with approved electric contacts attached to the car doors or gates that will prevent operation of the material lift by the normal operating devices unless the car doors or gates are closed.

NEW SECTION

WAC 296-93-120 CAR OPERATING AND TERMINAL STOPPING DEVICES AND ELECTRICAL PROTECTIVE DEVICES. (1) All devices that operate by electricity shall be enclosed.

- (2) Phase reversal and failure protection. A material lift, other than a hydro-electric material lift, that is powered by polyphase alternating current must have a means to prevent the starting of the material lift motor if the phase rotation is in the wrong direction, or any phase fails.
- (3) A material lift that is driven by a winding drum machine shall have a slack rope device with an enclosed electric switch, of the manually reset type, that will remove the electric power from the driving machine and brake if the hoisting ropes become slack.

NEW SECTION

WAC 296-93-130 STOP SWITCH. There shall be, at the bottom of each hoistway, a stop switch. When opened, the stop switch shall remove the electrical power from the driving machine and brake. The stop switch shall:

- (1) Be manually operated;
- (2) Have red operating handles or buttons;
- (3) Be conspicuously and permanently marked "STOP";
- (4) Indicate the stop and run positions;
- (5) Be positively opened mechanically. The switch opening may not depend solely on springs;
 - (6) Be accessible from the access door; and
 - (7) Not be overridden from other locations.

NEW SECTION

WAC 296-93-140 CAR SAFETIES. (1) Every material lift that is suspended by wire ropes or chains must have car safeties. The car safeties must be able to stop and sustain the car with one hundred twenty-five percent of its rated load if the hoisting means fails.

(2) Material lifts driven by rack and pinion machines have safeties consisting of a freely rotating safety pinion, an overspeed governor, and a safety device that may form an integral unit mounted on the car. The freely rotating pinion travels on a stationary rack mounted vertically in the hoistway. The rotating pinion drives the overspeed governor. When the downward speed of the car reaches the tripping speed, the rotating overspeed governor actuates the safety device which, in turn, brings the car to a gradual stop.

NEW SECTION

WAC 296-93-150 BRAKES. Each electric material lift shall be equipped with effective brakes that are released electrically and applied by springs. The brakes must have a capacity sufficient to stop the car, and hold the car at rest, with one hundred twenty-five percent of

its rated load. At least one brake shall be mounted on the worm shaft of the driving machine. The brakes on each indirectly-driven material lift must set if the driving means fails.

NEW SECTION

WAC 296-93-160 ROPES AND CHAINS—ROPE CONNECTIONS, DATA, AND RECORDS. (1) Only iron (low carbon steel) or steel wire ropes with fibre cores shall be used for the suspension of material lift cars and for the suspension of counterweights.

(2) At least three hoisting ropes shall be used for a traction material lift and at least two shall be used for a drum material lift, or a sec-

ondary as well as primary load path to the hoist.

(3) The minimum factor of safety for suspension ropes shall be six times the manufacturer's rated breaking strength per rope.

- (4) The owner, operator, and installer of a material lift that is suspended by hoisting chains shall comply with the chain manufacturer's specifications for maintenance, inspection, and application. On material lifts using lifting chains of the roller chain type, the chains must have a six-to-one factor of safety, based on the A.N.S.I. minimum chain strength, not on average chain strength.
- (5) The car and the counterweight ends of the car, and counterweight wire ropes or the stationary hitch ends where multiple roping is used, shall be fastened so that the looped ends of the turned back portion in the rope sockets shall be readily visible. Fastenings shall be:

(a) Individual tapered, babbitted rope sockets; or

- (b) Other types of rope fastenings that meet the approval of the department.
- (6) The rope sockets must develop at least eighty percent of the breaking strength of the strongest rope to be used in the sockets. U-bolt rope clips (clamps) may not be used for load fastenings.
- (7) A metal or plastic data tag shall be securely attached to one of the wire rope fastenings each time the ropes are replaced or reshackled. The data tag shall include the diameter of the rope in inches and the manufacturer's rated breaking strength.
- (8) All replacements of wire rope or chain must be in accordance with the specifications of the manufacturer of the material lift.
- (9) The cable secured to the winding drum shall not be less than one and one-half turns around the drum when the carrier is at the extreme limit of travel.

NEW SECTION

WAC 296-93-170 CONTROLS. (1) The control station shall be remotely mounted so that it is inaccessible from the material lift car.

- (2) Controls shall be clearly marked or labeled to indicate the function of control.
- (3) All control stations shall have a stop switch. When opened, the stop switch shall remove the electrical power from the driving machine and brake. The stop switch shall:
 - (a) Be manually operated;
 - (b) Have red operating handles or buttons;
 - (c) Be conspicuously and permanently marked "STOP";
 - (d) Indicate the stop and run position; and
 - (e) Be arranged to be locked in the open position.

NEW SECTION

WAC 296-93-180 PIPES AND DUCTS. Pipes and ducts that convey gases, vapors, or liquids may not be installed in any hoistway, machine room, or machinery space unless they are necessary for the operation of the material lift.

NEW SECTION

WAC 296-93-190 MATERIAL LIFT PITS. (1) A material lift pit that extends to or into the ground the pit shall have noncombustible floors, and shall be designed to prevent entry of ground water into the pit. The floor of the pit shall be approximately level. Drains connected directly to sewers may not be installed in material lift pits. Safe and convenient access shall be provided to all pits. An approved ladder shall be provided for pits that are over three feet deep.

(2) Unperforated metal guards shall be installed in the pit on the open sides of the counterweights to which spring or solid-type buffers or oil buffers are attached. Guards shall extend from a point not more than twelve inches above the pit floor to a point not less than seven feet nor more than eight feet above the floor, and shall be fastened to a metal frame properly reinforced and braced to be at least equal in

strength and stiffness to No. 14 U.S. gauge sheet steel. If compensating chains or ropes are attached to the counterweight on the side facing the material lift car, the guard may be omitted on the side facing the material lift car.

NEW SECTION

WAC 296-93-200 ILLUMINATION OF PITS AND LAND-INGS. (1) All pits shall have illumination of not less than five foot-candles at the pit floor.

(2) All landings shall be illuminated.

NEW SECTION

WAC 296-93-210 CAPACITY POSTING AND NO-RIDERS SIGN. (1) Each material lift shall have a capacity sign permanently and securely fastened in place in the material lift car and on the landings. The sign shall indicate the rated load of the material lift in pounds. The sign shall be metal with black letters two inches high on yellow background.

(2) A sign stating, "NO PERSONS PERMITTED TO RIDE THIS DEVICE", shall be conspicuously and securely posted on the landing side of all hoistway gates and doors and in the enclosure of each material lift car. The sign shall be metal with black letters two inches high on red background.

NEW SECTION

WAC 296-93-220 ELECTRICAL WIRING. All electrical wiring, installations, and equipment in hoistways and machine rooms shall conform to the requirements of the 1984 edition of the National Electrical Code, including section 620 NEC. A material lift shall be provided with a single means of disconnecting all ungrounded main power connectors for each unit. The disconnecting means shall be an enclosed, externally operable fused motor circuit switch or circuit breaker arranged to be locked in the open position. No provision may be made to close this disconnecting means from any other part of the premises. The disconnecting means shall be located inside the controllers.

NEW SECTION

WAC 296-93-230 GUARDING OF EXPOSED EQUIPMENT. (1) Guards to protect against accidental contact shall be provided for gears, sprockets, sheaves, drums, ropes, and chains in machine rooms and machinery spaces in accordance with Washington Industrial Safety and Health Act standards. See WAC 296-24-150.

(2) The machine room door shall be self-closing, and provided with a spring lock that permits the doors to be opened from inside without a key and that does not depend on a key or other device for locking. The door must be kept closed and locked except when an attendant is on duty in the machine room.

NEW SECTION

WAC 296-93-240 MAINTENANCE. All material lifts covered under this chapter, both existing and new, and all parts of the material lifts shall be maintained in a safe condition. All devices and safeguards that are required by this chapter shall be maintained in good working order. The owner of a material lift, or his or her designated agent, is responsible for the maintenance of the material lift and its parts.

NEW SECTION

WAC 296-93-250 INSTALLATION PERMIT. (1) An installation permit shall be obtained from the department before erecting, installing, relocating, or altering a material lift.

(2) The installer of the material lift shall submit an application for permit in duplicate, in a form that the department shall prescribe.

- (3) The permit issued by the department shall be kept posted conspicuously at the site of installation.
- (4) No permit is required for repairs and replacement normally necessary for maintenance and made with parts of equivalent materials, strength, and design.

NEW SECTION

WAC 296-93-260 NEW INSTALLATION—ALTERATION OR RELOCATION. Each new installation, alteration, or relocation shall, on its completion and before being placed in service, be inspected

to determine that the installation complies with this chapter. The inspection shall include tests of the safety devices with one hundred twenty-five percent of the capacity load.

NEW SECTION

WAC 296-93-270 YEARLY INSPECTIONS. The department shall cause all material lifts to be inspected and tested at least once each year. Inspectors have the right during reasonable hours to enter into and upon any building or premises in the discharge of their official duties, for the purpose of making any inspection or testing any conveyance contained thereon or therein. Inspections and tests shall conform with this chapter.

NEW SECTION

WAC 296-93-280 OPERATING PERMIT. An operating permit is required for each material lift operated in the state of Washington except during its erection by the person or firm responsible for its installation. A permit issued by the department shall be kept conspicuously posted near the conveyance.

NEW SECTION

WAC 296-93-290 FIVE-YEAR TESTS. A five-year test of the car and counterweight safety devices shall be conducted with capacity load and a report of the test results shall be submitted to the department for approval.

Persons who are qualified to test a material lift are:

- (1) A representative of a firm or manufacturer that is regularly engaged in installing or servicing material lifts.
- (2) A person who has demonstrated to the department his or her ability to inspect and test a material lift.

NEW SECTION

WAC 296-93-300 SUBMISSION OF PLANS FOR NEW IN-STALLATIONS. Plans shall be submitted in duplicate for approval to the conveyance section of the department before construction. The fee for checking plans is twenty dollars for each installation.

NEW SECTION

WAC 296-93-320 CONSTRUCTION, ALTERATION, AND RELOCATION FEES. The construction, alteration, and relocation fees are:

TOTAL COST	FEE
\$250.00 to and including \$1,000	\$25.00
\$1,001 to and including \$15,000	
For first \$1,001	35.00
For each additional \$1,000 or fraction	7.00
\$15,001 to and including \$100,000	
For first \$15,001	133.00
For each additional \$1,000 or fraction	5.00
Over \$100,001	
For first \$100,001	
For each additional \$1,000 or fraction	4.00

NEW SECTION

WAC 296-93-330 ANNUAL OPERATING PERMIT FEE. The fee for an annual operating permit is sixty dollars for each material lift. No operating permit shall be issued for the operation of a material lift until the department has received the fee.

WSR 84-05-033 PROPOSED RULES OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Filed February 16, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Minority and Women's Business Enterprises intends to adopt, amend, or repeal rules concerning:

Amd New	WAC 326-02-030 ch. 326-06 WAC	Definitions. Public records rules and regulations for
		the Office of Minority and Women's
		Business Enterprises.
New	ch. 326-08 WAC	Hearings procedures.
Amd	WAC 326-20-050	Proof of ownership of business.
Amd	WAC 326-20-060	Counting community property.
Amd	WAC 326-20-180	Effect of certification.
Amd	WAC 326-20-210	Reconsideration of decision.
Amd	WAC 326-30-100	Agency/educational institution reporting
		of MWBE participation.
New	WAC 326-40-100	Joint venture approval;

that the agency will at 1:00 p.m., Tuesday, March 27, 1984, in the Office Building 2 Auditorium, 12th and Franklin Streets, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 3, 1984.

The authority under which these rules are proposed is chapter 39.19 RCW.

The specific statute these rules are intended to implement is chapter 39.19 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 16, 1984.

Dated: February 16, 1984
By: Carolyn V. Patton
Director

STATEMENT OF PURPOSE

Titles: WAC 326-02-030 Definitions; chapter 326-06 WAC Public records rules and procedures for the Office of Minority and Women's Business Enterprises; chapter 326-08 WAC Hearings procedures; WAC 326-20-050 Proof of ownership of business; WAC 326-20-060 Counting community property; WAC 326-20-180 Effect of certification; WAC 326-20-210 Reconsideration of decision; WAC 326-30-100 Agency/educational institution reporting of MWBE participation; and WAC 326-40-100 Joint venture approval.

Description of Purpose: To remedy problems identified in implementation of chapter 39.19 RCW.

Statutory Authority: Chapter 39.19 RCW.

Specific Statute Rule is Intended to Implement: Chapter 39.19 RCW.

Title: WAC 326-02-030 Definitions.

Summary: To revise the definition of "joint venture."

Title: Chapter 326-06 WAC, Public records rules and regulations for the Office of Minority and Women's Business Enterprises.

Summary: To define procedures OMWBE will follow regarding the disclosure of public records.

Title: Chapter 326–08 WAC, Appeals procedures.

Summary: To define procedures for contested case hearings to review decisions of OMWBE to deny or revoke certification or to refuse to renew certification of a business as a MBE or WBE.

Title: WAC 326-20-050 Proof of ownership of business.

Summary: To add statement regarding additional information the OMWBE may request to prove ownership interest.

Title: WAC 326-20-060 Counting community property.

Summary: To remove mandatory requirement of separate property agreements.

Title: WAC 326-20-180 Effect of certification.

Summary: To add statement requiring continued cooperation with OMWBE after business is certified.

Title: WAC 326-20-210 Reconsideration of decision. Summary: To add statement regarding opportunity for aggrieved party to request a hearing when a petition for reconsideration has been denied.

Title: WAC 326-30-100 Agency/educational institution reporting of MWBE participation.

Summary: To add language regarding reporting the participation of joint ventures.

Title: WAC 326-40-100 Joint venture approval.

Summary: To define procedures agencies/educational institutions will use to approve joint ventures.

Agency Personnel Responsible for Drafting: Carolyn V. Patton, Director, Office of Minority and Women's Business Enterprises; Implementation: State agencies and educational institutions; and Enforcement: Carolyn V. Patton, Office of Minority and Women's Business Enterprises and staff.

Person or Organization Proposing Rule: The Washington State Office of Minority and Women's Business Enterprises.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Small Business Economic Impact Statement: WAC 326-20-060 Counting community property. The amendments to the counting community property rule will not have an economic impact on the business community. The application process is simplified when the community property considerations are no longer included in determining the qualifications of an applicant. In addition, the separate property agreement will be required on a case-by-case basis.

WAC 326-40-100 Joint venture approvals. The joint venture rule will not have an economic impact on the small business community. Establishing a joint venture is a common industry practice in construction and personal service contracting. Normal costs involved in establishing a joint venture include the preparation of the agreement and lawyer fees, when a lawyer's services are used. These costs vary from contract to contract depending on the scope of the work, technical aspects involved, and the amount of participation from each partner. The rules specify the requirements for joint venture approval. Since joint ventures work well toward increasing opportunities for small businesses in partnership with larger businesses, the rules will facilitate the participation of minority and women-owned businesses in state contracting.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-02-030 DEFINITIONS. Words and terms used in these rules shall have the same meaning as each has under chapter 120, Laws of 1983, unless otherwise specifically provided in these rules, or the context in which they are used clearly indicates that they be given some other meaning.

- (1) "Advisory committee" means the advisory committee on minority and women's business enterprises.
- (2) "Class of contract basis" means an entire group of contracts having a common characteristic. Examples include, but are not limited to, personal service contracts, public works contracts, leases, purchasing contracts, and contracts for specific types of goods and/or services.
- (3) "Combination minority and women's business enterprise" means a business organized for profit, performing a commercially useful function, which is fifty percent owned and controlled by a minority male and fifty percent owned and controlled by a nonminority woman. Both owners must be United States citizens or lawful permanent residents and cannot be married to each other.
- (4) "Commercially useful function" means being responsible for execution of a contract or a distinct element of the work under a contract by actually performing, managing and supervising the work involved.
- (5) "Contract" means a mutually binding legal relationship, including a lease, or any modification thereof, obligating the seller to furnish goods or services, including construction, and the buyer to pay for them.
- (6) "Contract by contract basis" means a single contract within a specific class of contracts.
- (7) "Contractor" means a party who enters into a contract to provide a state agency or educational institution with goods or services, including construction, or a subcontractor or sublessee of such a party.
- (8) "Director" means the director of the office of minority and women's business enterprises.
- (9) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.
- (10) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume for participation by minority and womenowned businesses, and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. Goals shall be met on a contract by contract or class of contract basis of contract basis state agencies and educational institutions should facilitate the entry of minority and women's business enterprises into types of businesses in which MBE's and WBE's are underrepresented.
- (11) "Goods and/or services" means all goods and services, including professional services.
- (12) "Joint venture" means ((an association of)) a single enterprise partnership of two or more persons or businesses created to carry out a single business enterprise for profit for which purpose they combine their ((property;)) capital, efforts, skills, ((and)) knowledge or property and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.
- (13) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:
- (a) Black: Having origins in any of the black racial groups of Africa:
- (b) Hispanic: Of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race:
- (c) Asian American: Having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands: or
- (d) American Indian or Alaskan Native: Having origins in any of the original peoples of North America.

Persons who are visibly identifiable as a minority need not provide documentation of their racial heritage but may be required to submit a photograph. Persons who are not visibly identifiable as a minority must provide documentation of their racial heritage which will be determined on a case-by-case basis. The final determination will be in the sole discretion of the office.

- (14) "Minority business enterprise," "minority-owned business," or "MBE" means a business organized for profit, performing a commercially useful function, which is owned and controlled by one or more minority individuals or minority business enterprises certified by this office. Owned and controlled means a business in which one or more minorities or MBEs certified by this office own at least fifty-one percent, or in the case of a corporation at least fifty-one percent of the voting stock, and control at least fifty-one percent of the management and daily business operations of the business.
- (15) "MWBE" means a minority-owned business enterprise, a women-owned business enterprise; and/or a combination minority and women's business enterprise certified by the office of minority and women's business enterprises of the state of Washington.

- (16) "Office" means the office of minority and women's business enterprises of the state of Washington.
- (17) "Procurement" means the purchase, lease, or rental of any goods or services.
- (18) *Public works* means all work, including construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.
- (19) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.
- (20) "Women's business enterprise," "women-owned business enterprise," or "WBE" means a business organized for profit, performing a commercially useful function, which is owned and controlled by one or more women or women's business enterprises certified by this office. Owned and controlled means a business in which one or more women or WBE's certified by this office own at least fifty-one percent or the case of a corporation at least fifty-one percent of the voting stock, and control at least fifty-one percent of the management and daily business operations of the business. The women owners must be United States citizens or lawful permanent residents.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Chapter 326–06 WAC PUBLIC RECORDS RULES AND REGULATIONS FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTER-

PRISES

320-00-010	Purpose.
326-06-020	Definitions.
326-06-030	Description of office organization.
326-06-040	Operations and procedures.
326-06-050	Public records available.
326-06-060	Public records officer.
326-06-070	Office hours.
326-06-080	Requests for public records.
326-06-090	Copying.
326-06-100	Exemptions.
326-06-110	Review of denials of public records request.
326-06-120	Protection of public records.
326-06-130	Records index.
326-06-140	Communications with the agency.

D.....

NEW SECTION

326-06-160

WAC

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WAC 326-06-010 PURPOSE. The purpose of this chapter shall be to ensure compliance by the office of minority and women's business enterprises with the provisions of chapter 42.17 RCW (Initiative 276), and in particular with sections 25 through 32 of that act, dealing with public records.

Request for public record—Form.

NEW SECTION

WAC 326-06-020 DEFINITIONS. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by this agency regardless of physical form or characteristics.

- (2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.
- (3) "Agency" means the office of minority and women's business enterprises, and the staff and employees thereof, unless the context clearly indicates otherwise.

NEW SECTION

WAC 326-06-030 DESCRIPTION OF OFFICE ORGANIZATION. (1) The office is located at 221 Fifth Avenue West, Olympia, Washington 98504.

(2) The office consists of a director, confidential secretary, research analyst, and a number of MWBE administrators.

The office provides the following services: Certification of businesses as MBEs or WBEs, monitoring agency/educational institution compliance with chapter 39.19 RCW and Title 326 WAC, publication of a list of certified vendors, identification of barriers to participation by women-owned minority businesses in state agencies' educational institutions' contracts, and development of a plan insuring provision to qualified minority and women-owned businesses of the opportunity to participate in state agency and educational institution contracts.

The MWBE administrators review applications for certification and provide information about that process to the public. Should information about the certification process or the status of a particular application be desired, the request should be made to the public records officer at OMWBE. Complaints about a certified business should be made following the procedures outlined in WAC 326-20-200.

NEW SECTION

WAC 326-06-040 OPERATIONS AND PROCEDURES. (1) Practice and procedure in and before the agency are governed by the uniform procedure rules, chapter 1-08 WAC. Contested case hearings are governed by chapter 326-08 WAC.

(2) The operations of the agency, including meetings, selection of officers, filling of vacancies, and fiscal matters, are conducted according to the provisions of chapter 39.— RCW.

NEW SECTION

WAC 326-06-050 PUBLIC RECORDS AVAILABLE. All public records of the agency, as defined in WAC 326-06-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310.

NEW SECTION

WAC 326-06-060 PUBLIC RECORDS OFFICER. The agency's public records shall be in charge of the public records officer designated by the director. The public records officer shall be responsible for the following: The implementation of the agency's rules and regulations regarding release of public records, coordinating the staff of the agency in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

NEW SECTION

WAC 326-06-070 OFFICE HOURS. Public records shall be available for inspection and copying during the customary office hours of the agency. For the purposes of this chapter, the customary office hours shall be from 8 a.m. to noon and from 1 p.m. to 5 p.m., Monday through Friday, excluding legal holidays.

NEW SECTION

WAC 326-06-080 REQUESTS FOR PUBLIC RECORDS. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

- (1) A request shall be made in writing upon a form prescribed by the agency which shall be available at its office. The form shall be presented to the public records officer; or to any member of the agency's staff, if the public records officer is not available, at the office of the agency during customary office hours. The request shall include the following information:
- (a) The name, address, and organization represented, if any, of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
 - (c) The nature of the request;

- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the agency's current index, an appropriate description of the record requested;
- (2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

NEW SECTION

WAC 326-06-090 COPYING. No fee shall be charged for the inspection of public records. The agency shall charge a fee of twenty-five cents per page of copy for providing copies of public records and for use of the agency's copy equipment. This charge is the amount necessary to reimburse the agency for its actual costs incident to such copying.

NEW SECTION

WAC 326-06-100 EXEMPTIONS. (1) The agency reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 326-06-080 is exempt under the provisions of RCW 42.17.310.

- (2) In addition, pursuant to RCW 42.17.260(1), the agency reserves the right to delete identifying details when it makes available or publishes any public record, in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.
- (3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

NEW SECTION

WAC 326-06-110 REVIEW OF DENIALS OF PUBLIC RE-CORDS REQUEST. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

- (2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the director, who shall immediately consider the matter and either affirm or reverse such denial. The request shall be returned with a final decision, within two business days following the original denial.
- (3) Administrative remedies shall not be considered exhausted until the agency has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

NEW SECTION

WAC 326-06-120 PROTECTION OF PUBLIC RECORDS. (1) No person shall knowingly alter, deface, or destroy public records of the agency.

(2) Original copies of public records of the agency shall not be removed from the offices of the agency.

(3) Care and safekeeping of public records of the agency, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.

(4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.

(5) Boisterous or otherwise disruptive conduct by those requesting public records of the agency shall not be permitted.

NEW SECTION

WAC 326-06-130 RECORDS INDEX. (1) A chronological index is maintained providing identifying information as to all governmental records issued, adopted, or promulgated after June 30, 1972,

- which are deemed by the agency to fall within the purview of RCW 42.17.260 and which are not exempted under the provisions of RCW 42.17.310.
- (2) The current index promulgated by the agency shall be available to all persons under the same rules and on the same rules and on the same conditions as are applied to public records available for inspection.

NEW SECTION

WAC 326-06-140 COMMUNICATIONS WITH THE AGENCY. All communications with the agency including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW and these rules; requests for copies of the agency's rules and other matters, shall be addressed as follows: Office of Minority and Women's Business Enterprises, c/o Public Records Officer, 221 W. 5th, Olympia, Washington 98504.

NEW SECTION

WAC 326-06-160 REQUEST FOR PUBLIC RECORD-FORM.

STATE OF WASHINGTON
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

REQUEST FOR PUBLIC RECORD

Requested By:	
Public Records or Information Requested:	
Requester Read and S	Sign:
tions published	at I must abide by the Rules and Regula- by the OMWBE, for the protection of , a copy of which I have read and
copy for all sta	at I will be charged twenty—five cents per ndard letter size copies I desire and that cations are available at cost.
Requester's Signatu	re:
Completed by Agency	Public Records Officer:
Date of Receipt:	
=	
Number of Copies:	
•	\$

Public records of the agency are provided for inspection and copying subject to the following regulations:

- No person shall knowingly alter, deface, or destroy public records of the agency.
- (2) Original copies of public records of the agency shall not be removed from the offices of the agency.
- (3) Care and safekeeping of public records of the agency, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.

- (4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.
- (5) Boisterous or otherwise disruptive conduct by those requesting public records of the agency shall not be permitted.

I have read, understand, and will comply with the above-stated regulations.

(Signature and date)

CHAPTER 326-08 WAC

HEARINGS PROCEDURES

326-08-010	Purpose
326-08-020	General Procedures Rules
326-08-030	Amendments Apply to Pending Cases
326-08-040	Who May Appear and Practice
326-08-050	Notice of Hearings
326-08-060	Form of Pleadings
326-08-070	Service of Papers
326-08-080	Who May Issue Subpoenas
326-08-090	Service of Subpoenas
326-08-100	Procedures for Settlement or Dispositions Without Hearing
326-08-110	Proposed Decisions—Preparation and Service
326-08-120	Objections to Proposed Decision
326-08-130	Decision

NEW SECTION

WAC

WAC 326-08-010 PURPOSE. The purpose of this chapter is to effectuate the intent of Chapter 39.19 RCW by providing procedures for contested case hearings to review decisions of OMWBE to deny or to revoke certification or to refuse to renew certification of a business as an MBE or WBE.

NEW SECTION

WAC 326-08-020 GENERAL PROCEDURES RULES. The provisions of Chapter 10-08 WAC, "Uniform Procedural Rules for the Conduct of Contested Cases" shall apply to hearings regarding certification by OMWBE.

NEW SECTION

WAC 326-08-030 AMENDMENTS APPLY TO PENDING CASES. An amendment to this chapter applies to cases pending at the time of the adoption of the amendment, unless the amendment or rule-making order says that it does not apply to pending cases. An amendment to this chapter does not require that anything already done be redone to comply with the amendment unless the amendment expressly says so.

NEW SECTION

WAC 326-08-040 WHO MAY APPEAR AND PRACTICE. No person other than the following may appear in a representative capacity governed by this chapter:

(1) Washington lawyer. An attorney at law entitled to practice before the Supreme Court of the State of Washington.

- (2) Other lawyer. An attorney at law entitled to practice before the highest court of record of any other state, if attorneys at law of the State of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by Washington law;
- (3) Legal intern. A legal intern licensed to engage in the practice of law in the State of Washington under Adminission to Practice Rule 9;
- (4) Officer, etc. A bona fide officer, partner, or full-time employee of an association, partnership, or corporation appearing for the association, partnership or corporation.
- (5) Former employee of OMWBE. A former employee of OMWBE shall not, at any time after severing his or her employment with the office, appear, except with the written permission of the director as a representative or expert witness on behalf of a petitioner in a matter in

which he or she previously took an active part as a representative of the office.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 326-08-050 NOTICE OF HEARING. When OMWBE receives a request for hearing, a notice of hearing will be issued to all parties and to the Office of Administrative Hearings as provided by RCW 34.04.090.

- (1) Time. All parties shall be served with notice not less than twenty days before the hearing.
- (2) Contents. The notice shall state the time, place, and nature of the hearing. Further, it shall state the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular statute and rules involved; and a short and plain statement of the matters asserted.

NEW SECTION

WAC 326-08-060 FORM OF PLEADINGS. Papers may be submitted in any form. OMWBE requests, but does not required, that all papers be typewritten on white paper of letter size (8 1/2" x 11").

NEW SECTION

WAC 326-08-070 SERVICE OF PAPERS. Any paper filed with the administrative law judge shall be served on all parties in the manner described in WAC 10-08-110.

NEW SECTION

WAC 326-08-080 WHO MAY ISSUE SUBPOENAS. Subpocnas may be issued by director of OMWBE, any OMWBE staff member designated by the director, the assigned administrative law judge, or an attorney at law who is the attorney for any party in the contested case as provided in RCW 34.04.105.

NEW SECTION

WAC 326-08-090 SERVICE OF SUBPOENAS. Subpoenas may be served in any manner authorized by WAC 10-08-110.

NEW SECTION

WAC 326-08-100 PROCEDURES FOR SETTLEMENT OR DISPOSITION WITHOUT A HEARING. With the approval of the administrative law judge, disposition may also be made of any hearing by stipulation, consent order or default. Any person feeling aggrieved by the entry of an order of default may request the director to review the order by using the procedure outlined in WAC 326-08-130. The director will set aside an order of default only upon a showing of good and sufficient cause for such failure to appear or to request a post-ponement prior to the scheduled time for hearing. In the event such order of default is set aside, all interested parties shall be so notified in writing and the matter restored to the hearing calendar.

NEW SECTION

WAC 326-08-110 PROPOSED DECISION—PREPARATION AND SERVICE. (1) Preparation. Within a reasonable time after the conclusion of the hearing before an administrative law judge, the administrative law judge shall prepare a proposed order for signature by the director of OMWBE. The proposed order shall conform to the requirements of WAC 10-08-210.

(2) Service. A copy of the proposed order shall be sent, by certified mail, to all parties.

NEW SECTION

WAC 326-08-120 OBJECTIONS TO PROPOSED DECISION. Any party may make written objections to the proposed order. Any such objection must be served on the director and all other parties within ten days of service of the proposed order. An objection shall state specifically how the proposed order should be modified.

NEW SECTION

WAC 326-08-130 DECISION. The director will issue a written decision no later than thirty days from the date the proposed decision is served on the parties.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-050 PROOF OF OWNERSHIP OF BUSINESS. All minority or women owners shall submit to the office proof of their ownership of the requisite percentage of the business at the time the application is submitted. Such proof shall consist of stock certificates, a notarized affidavit of stock ownership from the corporate treasurer, a parternship agreement, cancelled check used to purchase ownership, or other recognized proof of ownership. In cases of sole proprietorships or other cases where documentary proof of ownership is not available, the minority or women owners shall so advise the office, which may undertake further investigation. The office may also require documents showing how and when the minority or women owners' interest in the business was acquired. The office may, for any reason, require any minority or women owners to provide additional proof of, or information concerning, ownership. The office may request additional information regarding separate ownership of a business including, but not limited to, a separate property agreement.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-060 ((COUNTING COMMUNITY PROPER-TY)) COMMUNITY OWNERSHIP. ((The fifty-one percent ownership requirement is not met by an owner having only his or her fifty percent interest under community property laws. Except as provided in this section, each minority or woman owner who is a resident of a community property state and who is married must submit a copy of a separate property agreement signed by both spouses showing that the owner's spouse has acknowledged that at least two percent of the owner's interest in the business is held as the owner's separate property. This will not be required in these situations:

- (1) Where a male minority owner of an MBE is married to a minority female.
- (2) Where the fifty-one percent ownership requirement can be satisfied without requiring each owner to file a separate property agreement. Example: If fifty percent of the stock of a corporation is in the name of an unmarried women and the other fifty percent is in the name of a married woman in a community property state, the fifty-one percent ownership criteria for WBE certification is satisfied. In this case, fifty percent of the stock is owned by the unmarried woman as her separate property, twenty-five percent of the stock is owned by the married woman as community property and twenty-five percent of the stock is owned by the married woman's husband as community property. Thus, since seventy-five percent of a stock is owned by women, the married woman does not need a separate property agreement.)) An ownership interest arising in a nonapplicant spouse solely because of the operation of community property laws will not disqualify the applicant spouse from certification. Both spouses must certify that:
- (a) only one spouse participates in the management of the business. (b) the non-participating spouse relinquishes control over his/her

community interest in the subject business.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-180 EFFECT OF CERTIFICATION. Certification as a MWBE shall have the following effects:

- (1) Certification as a MWBE for the state program shall entitle the MWBE to be counted by state agencies and educational institutions toward meeting their MWBE goals under this chapter. Certification as a MWBE for a federal program shall entitle the MWBE to be counted by state agencies and educational institutions toward meeting the MWBE goals under those programs. Certification shall be effective as of the date the decision is made in writing.
- (2) Certification may be revoked at any time the office determines that the MWBE does not meet the current cirteria for eligibility for certification. The MWBE shall notify the office of any changes in its

ownership, control, or operations which may affect its continued eligibility as a MWBE. The duty of a business to cooperate with OMWBE investigation and the consent of a business to on-site investigation by OMWBE created in WAC Sections 326-20-140 and 326-20-150 shall continue after a business is certified by OMWBE.

(3) Certification is effective for one year. The office may require of all applicants and/or of selected applicants periodic notarized statements regarding changes in the information provided during the initial certification process. The office will renew the certification annually as long as the applicant continues to meet the eligibility criteria.

(4) Certification as a MWBE does not constitute compliance with any other laws or regulations, including contractor registration or prequalification, and does not relieve any firm of its obligations under other laws or regulations. Certification as a MWBE does not constitute any determination by the office that the firm is responsible or capable of performing any work.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-210 RECONSIDERATION OF DECISION. Decisions to deny certification, deny renewal of certification, or to revoke certification will be reconsidered on the following basis:

- (1) When an applicant has been denied certification, or when a MWBE's certification has not been renewed or has been revoked, the applicant may petition the office for reconsideration of the decision on the grounds that the office did not have all relevant information, that the office misapplied its rules, or that the office otherwise made an
- (2) A petition for reconsideration must be in writing and must be received by the office within thirty calendar days of the mailing of the decision, or the decision becomes administratively final. The petition must set forth the grounds on which the applicant believes the decision is in error, including any additional information which the applicant business has to offer.
- (3) Upon receipt of the petition, the office shall review the petition and any additional information, and may conduct further investigation. The office will then notify the applicant by certified mail of its decision either to affirm the denial, the denial of renewal, or revocation of certification or to grant certification.
- (4) ((If a petition for reconsideration is filed, a decision to deny certification following consideration of the petition is administratively final.)) If a petition for reconsideration is filed and reconsideration is denied, any aggrieved party may request a hearing. The request must be made in writing and must be made within thirty days of service of the decision denying the petition for reconsideration.

AMENDATORY SECTION (Amending Order 83-7, filed January 5, 1984)

WAC 326-30-100 AGENCY/EDUCATIONAL INSTITU-TION REPORTING OF MWBE PARTICIPATION. (1) Form. Each state agency and educational institution shall report the participation of MBEs and WBEs in the public works, personal service, and procurement contracts executed by the agency or educational institution. The reports shall be made on a quarterly basis and an annual basis. The reports should designate contracts individually or by class according to the agency's designation in its annual plan. The reports shall also describe the agency's or educational institution's monitoring activity pursuant to sections 8 and 9, Chapter 120, laws of 1983.

(2) When participation should be reported. Participation by MBEs and WBEs should be reported both when the contract is awarded and when the money is disbursed. For contracts for procurement of goods and services, and personal services, the disbursement should be reported in the quarter in which it is made. For public works contracts, disbursement of funds under all contracts completed in the quarter should be reported, and the reports shall be accompanied by the affidavits of payment executed by the prime contractors for those contracts. Where the performance under a contract extends beyond the fiscal year in which it is awarded, all payments made on the contract will be counted toward the agency's or educational institution's annual overall goal attainment for the year in which it is awarded. Where a contract is awarded to an approved joint venture, an affidavit of the actual disbursement of the funds to the joint venturers, signed by all of the joint ventures, shall accompany the report of disbursement.

- (3) Counting MWBE participation toward meeting goals.
- (a) Award to MBE or WBE. When a contract is awarded, in its entirety, to an MBE or WBE, one hundred percent of the payments on the contract can be counted toward annual, overall goal attainment in the category in which the prime belongs.
- (b) Award to MBE or WBE prime contractor with non-MWBE subcontractor. When a contract is awarded to an MBE or WBE prime contractor with a non-MWBE subcontractor, one hundred percent of the total contract value can be counted toward annual, overall goal attainment.
- (c) Award to non-MWBE prime contractor with MWBE subcontractor. When only a part of the contract is performed by an MBE or WBE, subcontractor, the dollar value of only that percentage of the total contract performed by the MBE or WBE can be counted toward annual, overall goal attainment.
- (d) Award to MBE prime contractor with WBE subcontractor. When a contract is awarded to an MBE prime contractor with a WBE subcontractor, the dollar value of the percentage of the total contract performed by the WBE can be counted toward the agency's/educational institution's WBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the MBE goal.
- (e) Award to WBE prime contractor with MBE subcontractor. When a contract is awarded to a WBE prime contractor with a MBE subcontractor, the dollar value of the percentage of the total contract performed by the MBE can be counted toward the agency's/educational institution's MBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the WBE goal.
- (f) Joint venture. Where a contract is awarded to a joint venture that includes an MWBE that is responsible for performance of a clearly defined portion of the work, the dollar value, on a percentage basis, of the MWBE's portion of the work may be counted toward annual, overall goal attainment.
- (g) Combination MWBE. Contracts performed totally by a combination MWBE, or partially by a combination MWBE shall be counted by dividing the total dollar value of the contract or portion of contract performed by the combination MWBE by two. One-half of the dollar value will be counted toward the agency's/educational institution's attainment of the MBE goal and one-half will be counted toward the agency's/educational institution's attainment of the WBE goal when the contract contains both MBE and WBE requirements. When the contract contains only an MBE requirement or a WBE requirement, only one-half of the dollar value of the combination MWBE's participation shall be counted toward the agency's/educational institution's attainment of the goal.
- (h) Counting participation by a minority WBE. The agency/institution must count participation by a minority female in only the category she designated in her bid. Her participation cannot be counted toward attainment of both overall annual goals.
- (i) Substitution of MWBEs. When an MBE or WBE which has been awarded a contract is decertified after award or indicates after award that it is unable or unwilling to perform the contract, the agency/institution may not count the MWBE participation toward its overall annual goal attainment.

Where an MBE or WBE is decertified after it has begun to perform the work and the agency/institution determines substitution is impractical, only the percentage of the work performed by an MBE or WBE before the decertification can be counted toward the annual, overall goal attainment of the agency/institution.

Where a certified MBE or WBE is substituted for a decertified business or a business that indicates it is unwilling or unable to perform the work, the dollar value of the work performed by the certified business can be counted toward the agency/educational institution's goal attainment in that category.

- (4) Counting Contract Awards. MWBE participation shall be counted toward meeting goals in accordance with the following criteria:
- (a) Where only one state agency/educational institution is involved in setting goals and in the award of the contract, the total dollar value of the contract awarded to or that portion of the work performed by minority and women's business enterprises is counted toward the agency's/educational institution's applicable MBE/WBE goals.
- (b) Where a contract is awarded by a state agency/educational institution acting as an agent for another state agency/educational institution, the goals set by the agent and the total dollar value of the contract awarded to or that portion of the contract work performed by

minority and women's business enterprises is counted toward the agent's applicable MBE/WBE goals. This includes contracts awarded by agents in areas usually included under the agency's/educational institution's delegated authorities. Where agents set and count goals, the total dollar value of the contract is excluded from the requesting agency's/educational institution's contracting base.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 326-40-100 JOINT VENTURE APPROVAL. Money spent on contracts awarded to joint ventures can be counted toward goal attainment by agencies and educational institutions when the procedure outlined in this rule is followed.

- (a) Contents of joint venture agreement. The joint venture agreement must be in writing and signed under penalty of perjury by all of the joint venturers. Each joint venture agreement shall specify the capital contribution made by each joint venturer; the control each will exercise; and the distribution of profit and loss. Each of these elements must be allocated in proportion to their contribution. The joint venture agreement must also identify the commercially useful function the joint venture will perform and the part of the work each joint venture will do. The agreement must also specify which participant(s) are MBEs and which are WBEs and give documentations of MWBE certification.
- (b) Requests for approval. Any joint venture may request approval by any state agency or educational institution. The request must be in writing, must include a written joint venture agreement and must contain a statement that gives the approving agency/educational institution authority to audit the joint venture. The agreement shall conform to the requirements of subsection (a) of this section. An agency/educational institution shall approve a joint venture which submits an agreement that contains each of these specified elements.
- (c) Time of request. A request for approval of a joint venture must be submitted and approved before the time fixed for bid opening for contracts that are both competitively and non-competitively awarded contracts. If the joint venture is not approved, the agency shall award to the lowest responsive bidder or rebid.
- (d) Effect of approval. An approved joint venture is approved only for one specific contract. Disbursement of funds to an approved joint venture shall be counted toward goal attainment as described in WAC 326-30-100(3)(f).
- (e) Investigation. The agency or educational institution may request additional information from an enterprise seeking approval as a joint venture. Failure to provide the requested information shall result in the denial of the requested approval.
- (f) Complaints. Complaints regarding the composition or validity of an approved joint venture shall be written and shall be made to the approving agency or educational institution and to OMWBE. The agency or educational institution shall fully investigate each complaint and issue a written report of its findings. The report will be provided to the complainant and to OMWBE. Concurrently, the Office may investigate complaints pursuant to its rules and Chapter 39.19 RCW.

WSR 84-05-034 EMERGENCY RULES OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Order 84-2-Filed February 16, 1984]

I, Carolyn V. Patton, director of the Office of Minority and Women's Business Enterprises, do promulgate and adopt at Olympia, the annexed rules relating to:

Amd WAC 326-02-030 Definitions.

New ch. 326-06 WAC Public records rules and regulations for the Office of Minority and Women's

Business Enterprises.

New ch. 326-08 WAC Hearings procedures.
Amd WAC 326-20-050 Proof of ownership of business.

WAC 326-20-060 Amd Community ownership. WAC 326-20-180 Effect of certification. Amd Reconsideration of decision. WAC 326-20-210 Amd WAC 326-30-100 Amd Agency/educational institution reporting of MWBE participation. WAC 326-40-100 New Joint venture approval. WAC 326-40-010 New Criteria for bid specifications. WAC 326-40-020 Criteria for bid specifications. New

I, Carolyn V. Patton, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the statute these rules are intended to implement was effective September 1, 1983. These rules will remedy problems identified in implementation of chapter 39.19 RCW.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapter 39.19 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED February 16, 1984.

By Carolyn V. Patton Director

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-02-030 DEFINITIONS. Words and terms used in these rules shall have the same meaning as each has under chapter 120, Laws of 1983, unless otherwise specifically provided in these rules, or the context in which they are used clearly indicates that they be given some other meaning.

- (1) "Advisory committee" means the advisory committee on minority and women's business enterprises.
- (2) "Class of contract basis" means an entire group of contracts having a common characteristic. Examples include, but are not limited to, personal service contracts, public works contracts, leases, purchasing contracts, and contracts for specific types of goods and/or services.
- (3) "Combination minority and women's business enterprise" means a business organized for profit, performing a commercially useful function, which is fifty percent owned and controlled by a minority male and fifty percent owned and controlled by a nonminority woman. Both owners must be United States citizens or lawful permanent residents and cannot be married to each other.
- (4) "Commercially useful function" means being responsible for execution of a contract or a distinct element of the work under a contract by actually performing, managing and supervising the work involved.
- (5) "Contract" means a mutually binding legal relationship, including a lease, or any modification thereof,

- obligating the seller to furnish goods or services, including construction, and the buyer to pay for them.
- (6) "Contract by contract basis" means a single contract within a specific class of contracts.
- (7) "Contractor" means a party who enters into a contract to provide a state agency or educational institution with goods or services, including construction, or a subcontractor or sublessee of such a party.
- (8) "Director" means the director of the office of minority and women's business enterprises.
- (9) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.
- (10) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume for participation by minority and women—owned businesses, and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. Goals shall be met on a contract by contract or class of contract basis. In meeting their goals on either a contract by contract or a class of contract basis state agencies and educational institutions should facilitate the entry of minority and women's business enterprises into types of businesses in which MBE's and WBE's are underrepresented.
- (11) "Goods and/or services" means all goods and services, including professional services.
- (12) "Joint venture" means ((an association of)) a single enterprise partnership of two or more persons or businesses created to carry out a single business enterprise for profit for which purpose they combine their ((property,)) capital, efforts, skills, ((and)) knowledge or property and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.
- (13) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:
- (a) Black: Having origins in any of the black racial groups of Africa;
- (b) Hispanic: Of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race,
- (c) Asian American: Having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, or
- (d) American Indian or Alaskan Native: Having origins in any of the original peoples of North America.

Persons who are visibly identifiable as a minority need not provide documentation of their racial heritage but may be required to submit a photograph. Persons who are not visibly identifiable as a minority must provide documentation of their racial heritage which will be determined on a case-by-case basis. The final determination will be in the sole discretion of the office.

(14) "Minority business enterprise," "minority-owned business," or "MBE" means a business organized for profit, performing a commercially useful function, which is owned and controlled by one or more minority individuals or minority business enterprises certified by this office. Owned and controlled means a business in which one or more minorities or MBEs certified by this office

own at least fifty—one percent, or in the case of a corporation at least fifty—one percent of the voting stock, and control at least fifty—one percent of the management and daily business operations of the business.

- (15) "MWBE" means a minority-owned business enterprise, a women-owned business enterprise, and/or a combination minority and women's business enterprise certified by the office of minority and women's business enterprises of the state of Washington.
- (16) "Office" means the office of minority and women's business enterprises of the state of Washington.
- (17) "Procurement" means the purchase, lease, or rental of any goods or services.
- (18) "Public works" means all work, including construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.
- (19) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.
- (20) "Women's business enterprise," "women-owned business enterprise," or "WBE" means a business organized for profit, performing a commercially useful function, which is owned and controlled by one or more women or women's business enterprises certified by this office. Owned and controlled means a business in which one or more women or WBE's certified by this office own at least fifty-one percent or in the case of a corporation at least fifty-one percent of the voting stock, and control at least fifty-one percent of the management and daily business operations of the business. The women owners must be United States citizens or lawful permanent residents.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Chapter 326–06 WAC PUBLIC RECORDS RULES AND REGULATIONS FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

WAC	
326-06-010	Purpose.
326-06-020	Definitions.
326-06-030	Description of office organization.
326-06-040	Operations and procedures.
326-06-050	Public records available.
326-06-060	Public records officer.
326-06-070	Office hours.
326-06-080	Requests for public records.
326-06-090	Copying.
326-06-100	Exemptions.
326-06-110	Review of denials of public records
	request.
326-06-120	Protection of public records.
326-06-130	Records index.

326-06-140 Communications with the agency. 326-06-160 Request for public record—Form.

NEW SECTION

WAC 326-06-010 PURPOSE. The purpose of this chapter shall be to ensure compliance by the office of minority and women's business enterprises with the provisions of chapter 42.17 RCW (Initiative 276), and in particular with sections 25 through 32 of that act, dealing with public records.

NEW SECTION

WAC 326-06-020 DEFINITIONS. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by this agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(3) "Agency" means the office of minority and women's business enterprises, and the staff and employees thereof, unless the context clearly indicates otherwise.

NEW SECTION

WAC 326-06-030 DESCRIPTION OF OFFICE ORGANIZATION. (1) The office is located at 221 Fifth Avenue West, Olympia, Washington 98504.

(2) The office consists of a director, confidential secretary, research analyst, and a number of MWBE administrators.

The office provides the following services: Certification of businesses as MBEs or WBEs, monitoring agency/educational institution compliance with chapter 39.19 RCW and Title 326 WAC, publication of a list of certified vendors, identification of barriers to participation by women—owned minority businesses in state agencies' educational institutions' contracts, and development of a plan insuring provision to qualified minority and women—owned businesses of the opportunity to participate in state agency and educational institution contracts.

The MWBE administrators review applications for certification and provide information about that process to the public. Should information about the certification process or the status of a particular application be desired, the request should be made to the public records officer at OMWBE. Complaints about a certified business should be made following the procedures outlined in WAC 326-20-200.

NEW SECTION

WAC 326-06-040 OPERATIONS AND PROCE-DURES. (1) Practice and procedure in and before the agency are governed by the uniform procedure rules, chapter 1-08 WAC. Contested case hearings are governed by chapter 326-08 WAC.

(2) The operations of the agency, including meetings, selection of officers, filling of vacancies, and fiscal matters, are conducted according to the provisions of chapter 39.— RCW.

NEW SECTION

WAC 326-06-050 PUBLIC RECORDS AVAILABLE. All public records of the agency, as defined in WAC 326-06-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310.

NEW SECTION

WAC 326-06-060 PUBLIC RECORDS OFFI-CER. The agency's public records shall be in charge of the public records officer designated by the director. The public records officer shall be responsible for the following: The implementation of the agency's rules and regulations regarding release of public records, coordinating the staff of the agency in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

NEW SECTION

WAC 326-06-070 OFFICE HOURS. Public records shall be available for inspection and copying during the customary office hours of the agency. For the purposes of this chapter, the customary office hours shall be from 8 a.m. to noon and from 1 p.m. to 5 p.m., Monday through Friday, excluding legal holidays.

NEW SECTION

WAC 326-06-080 REQUESTS FOR PUBLIC RECORDS. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

- (1) A request shall be made in writing upon a form prescribed by the agency which shall be available at its office. The form shall be presented to the public records officer, or to any member of the agency's staff, if the public records officer is not available, at the office of the agency during customary office hours. The request shall include the following information:
- (a) The name, address, and organization represented, if any, of the person requesting the record;
- (b) The time of day and calendar date on which the request was made,
 - (c) The nature of the request,
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

- (e) If the requested matter is not identifiable by reference to the agency's current index, an appropriate description of the record requested;
- (2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

NEW SECTION

WAC 326-06-090 COPYING. No fee shall be charged for the inspection of public records. The agency shall charge a fee of twenty-five cents per page of copy for providing copies of public records and for use of the agency's copy equipment. This charge is the amount necessary to reimburse the agency for its actual costs incident to such copying.

NEW SECTION

WAC 326-06-100 EXEMPTIONS. (1) The agency reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 326-06-080 is exempt under the provisions of RCW 42.17.310.

- (2) In addition, pursuant to RCW 42.17.260(1), the agency reserves the right to delete identifying details when it makes available or publishes any public record, in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.
- (3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

NEW SECTION

WAC 326-06-110 REVIEW OF DENIALS OF PUBLIC RECORDS REQUEST. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

- (2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the director, who shall immediately consider the matter and either affirm or reverse such denial. The request shall be returned with a final decision, within two business days following the original denial.
- (3) Administrative remedies shall not be considered exhausted until the agency has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

NEW SECTION

WAC 326-06-120 PROTECTION OF PUBLIC RECORDS. (1) No person shall knowingly alter, deface, or destroy public records of the agency.

- (2) Original copies of public records of the agency shall not be removed from the offices of the agency.
- (3) Care and safekeeping of public records of the agency, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.
- (4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.
- (5) Boisterous or otherwise disruptive conduct by those requesting public records of the agency shall not be permitted.

NEW SECTION

WAC 326-06-130 RECORDS INDEX. (1) A chronological index is maintained providing identifying information as to all governmental records issued, adopted, or promulgated after June 30, 1972, which are deemed by the agency to fall within the purview of RCW 42.17.260 and which are not exempted under the provisions of RCW 42.17.310.

(2) The current index promulgated by the agency shall be available to all persons under the same rules and on the same rules and on the same conditions as are applied to public records available for inspection.

NEW SECTION

WAC 326-06-140 COMMUNICATIONS WITH THE AGENCY. All communications with the agency including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW and these rules, requests for copies of the agency's rules and other matters, shall be addressed as follows: Office of Minority and Women's Business Enterprises, c/o Public Records Officer, 221 W. 5th, Olympia, Washington 98504.

NEW SECTION

WAC 326-06-160 REQUEST FOR PUBLIC RECORD—FORM.

STATE OF WASHINGTON
OFFICE OF MINORITY AND WOMEN'S BUSINESS
ENTERPRISES

REQUEST FOR PUBLIC RECORD

Date of Request	:	 ·
Requested By:		
•		

	
Requester	Read and Sign:
and for	derstand that I must abide by the Rules Regulations published by the OMWBE, the protection of public records, a copy which I have read and understand.
five size	derstand that I will be charged twenty— cents per copy for all standard letter copies I desire and that other size pub- tions are available at cost.
Request	er's Signature:
_	by Agency Public Records Officer:
	Receipt:
	r of Copies:
	Received: \$
	if Agency is Unable to Comply:
Public I	Records Officer Signature:
	ords of the agency are provided for inspection as subject to the following regulations:
(1)	No person shall knowingly alter, deface, or destroy public records of the agency.
	Original copies of public records of the
(2)	agency shall not be removed from the offices of the agency.
. ,	of the agency. Care and safekeeping of public records of
. ,	of the agency. Care and safekeeping of public records of the agency, furnished pursuant to a request for inspection or copying, shall be the sole
(3)	of the agency. Care and safekeeping of public records of the agency, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor. Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organiza-

(Signature and date)

CHAPTER 326–08 WAC HEARINGS PROCEDURES

WAC	
326-08-010	Purpose
326-08-020	General Procedures Rules
326-08-030	Amendments Apply to Pending Cases
326-08-040	Who May Appear and Practice
326-08-050	Notice of Hearings
326-08-060	Form of Pleadings
326-08-070	Service of Papers
326-08-080	Who May Issue Subpoenas
<i>326–08–090</i>	Service of Subpoenas
326–08–100	Procedures for Settlement or Disposi- tions Without a Hearing
326–08–110	Proposed Decisions—Preparation and Service
326-08-120	Objections to Proposed Decision
326-08-130	Decision

NEW SECTION

WAC 326-08-010 PURPOSE. The purpose of this chapter is to effectuate the intent of Chapter 39.19 RCW by providing procedures for contested case hearings to review decisions of OMWBE to deny or to revoke certification or to refuse to renew certification of a business as an MBE or WBE.

NEW SECTION

WAC 326-08-020 GENERAL PROCEDURES RULES. The provisions of Chapter 10-08 WAC, "Uniform Procedural Rules for the Conduct of Contested Cases" shall apply to hearings regarding certification by OMWBE.

NEW SECTION

WAC 326-08-030 AMENDMENTS APPLY TO PENDING CASES. An amendment to this chapter applies to cases pending at the time of the adoption of the amendment, unless the amendment or rule-making order says that it does not apply to pending cases. An amendment to this chapter does not require that anything already done be redone to comply with the amendment unless the amendment expressly says so.

NEW SECTION

WAC 326-08-040 WHO MAY APPEAR AND PRACTICE. No person other than the following may appear in a representative capacity governed by this chapter:

- (1) Washington lawyer. An attorney at law entitled to practice before the Supreme Court of the State of Washington.
- (2) Other lawyer. An attorney at law entitled to practice before the highest court of record of any other state, if attorneys at law of the State of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by Washington law,

- (3) Legal intern. A legal intern licensed to engage in the practice of law in the State of Washington under Adminission to Practice Rule 9;
- (4) Officer, etc. A bona fide officer, partner, or full-time employee of an association, partnership, or corporation appearing for the association, partnership or corporation.
- (5) Former employee of OMWBE. A former employee of OMWBE shall not, at any time after severing his or her employment with the office, appear, except with the written permission of the director as a representative or expert witness on behalf of a petitioner in a matter in which he or she previously took an active part as a representative of the office.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 326-08-050 NOTICE OF HEARING. When OMWBE receives a request for hearing, a notice of hearing will be issued to all parties and to the Office of Administrative Hearings as provided by RCW 34.04.090.

- (1) Time. All parties shall be served with notice not less than twenty days before the hearing.
- (2) Contents. The notice shall state the time, place, and nature of the hearing. Further, it shall state the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular statute and rules involved; and a short and plain statement of the matters asserted.

NEW SECTION

WAC 326-08-060 FORM OF PLEADINGS. Papers may be submitted in any form. OMWBE requests, but does not required, that all papers be typewritten on white paper of letter size (8 1/2" x 11").

NEW SECTION

WAC 326-08-070 SERVICE OF PAPERS. Any paper filed with the administrative law judge shall be served on all parties in the manner described in WAC 10-08-110.

NEW SECTION

WAC 326-08-080 WHO MAY ISSUE SUBPOENAS. Subpoenas may be issued by director of OMWBE, any OMWBE staff member designated by the director, the assigned administrative law judge, or an attorney at law who is the attorney for any party in the contested case as provided in RCW 34.04.105.

NEW SECTION

WAC 326-08-090 SERVICE OF SUBPOENAS. Subpoenas may be served in any manner authorized by WAC 10-08-110.

NEW SECTION

WAC 326-08-100 PROCEDURES FOR SETTLEMENT OR DISPOSITION WITHOUT A HEARING. With the approval of the administrative law judge, disposition may also be made of any hearing by stipulation, consent order or default. Any person feeling aggrieved by the entry of an order of default may request the director to review the order by using the procedure outlined in WAC 326-08-130. The director will set aside an order of default only upon a showing of good and sufficient cause for such failure to appear or to request a postponement prior to the scheduled time for hearing. In the event such order of default is set aside, all interested parties shall be so notified in writing and the matter restored to the hearing calendar.

NEW SECTION

WAC 326-08-110 PROPOSED DECISION—PREPARATION AND SERVICE. (1) Preparation. Within a reasonable time after the conclusion of the hearing before an administrative law judge, the administrative law judge shall prepare a proposed order for signature by the director of OMWBE. The proposed order shall conform to the requirements of WAC 10-08-210.

(2) Service. A copy of the proposed order shall be sent, by certified mail, to all parties.

NEW SECTION

WAC 326-08-120 OBJECTIONS TO PRO-POSED DECISION. Any party may make written objections to the proposed order. Any such objection must be served on the director and all other parties within ten days of service of the proposed order. An objection shall state specifically how the proposed order should be modified.

NEW SECTION

WAC 326-08-130 DECISION. The director will issue a written decision no later than thirty days from the date the proposed decision is served on the parties.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-050 PROOF OF OWNERSHIP OF BUSINESS. All minority or women owners shall submit to the office proof of their ownership of the requisite percentage of the business at the time the application is submitted. Such proof shall consist of stock certificates, a notarized affidavit of stock ownership from the corporate treasurer, a parternship agreement, cancelled check used to purchase ownership, or other recognized proof of ownership. In cases of sole proprietorships or other cases where documentary proof of ownership is not available, the minority or women owners shall so advise the office, which may undertake further investigation. The office may also require documents showing how and when the minority or women owners' interest in the business was acquired. The office may, for any reason, require any minority or women owners to provide additional proof of, or information concerning, ownership. The office may

request additional information regarding separate ownership of a business including, but not limited to, a separate property agreement.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-060 ((COUNTING COMMUNITY PROPERTY)) COMMUNITY OWNERSHIP. ((The fifty-one percent ownership requirement is not met by an owner having only his or her fifty percent interest under community property laws. Except as provided in this section, each minority or woman owner who is a resident of a community property state and who is married must submit a copy of a separate property agreement signed by both spouses showing that the owner's spouse has acknowledged that at least two percent of the owner's interest in the business is held as the owner's separate property. This will not be required in these situations:

- (1) Where a male minority owner of an MBE is married to a minority female.
- (2) Where the fifty-one percent ownership requirement can be satisfied without requiring each owner to file a separate property agreement. Example: If fifty percent of the stock of a corporation is in the name of an unmarried women and the other fifty percent is in the name of a married woman in a community property state, the fifty-one percent ownership criteria for WBE certification is satisfied. In this case, fifty percent of the stock is owned by the unmarried woman as her separate property, twenty-five percent of the stock is owned by the married woman as community property and twentyfive percent of the stock is owned by the married woman's husband as community property. Thus, since seventy-five percent of a stock is owned by women, the married woman does not need a separate property agreement.)) An ownership interest arising in a nonapplicant spouse solely because of the operation of community property laws will not disqualify the applicant spouse from certification. Both spouses must certify
- (a) only one spouse participates in the management of the business.
- (b) the non-participating spouse relinquishes control over his/her community interest in the subject business.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-180 EFFECT OF CERTIFICA-TION. Certification as a MWBE shall have the following effects:

(1) Certification as a MWBE for the state program shall entitle the MWBE to be counted by state agencies and educational institutions toward meeting their MWBE goals under this chapter. Certification as a

MWBE for a federal program shall entitle the MWBE to be counted by state agencies and educational institutions toward meeting the MWBE goals under those programs. Certification shall be effective as of the date the decision is made in writing.

- (2) Certification may be revoked at any time the office determines that the MWBE does not meet the current cirteria for eligibility for certification. The MWBE shall notify the office of any changes in its ownership, control, or operations which may affect its continued eligibility as a MWBE. The duty of a business to cooperate with OMWBE investigation and the consent of a business to on-site investigation by OMWBE created in WAC Sections 326-20-140 and 326-20-150 shall continue after a business is certified by OMWBE.
- (3) Certification is effective for one year. The office may require of all applicants and/or of selected applicants periodic notarized statements regarding changes in the information provided during the initial certification process. The office will renew the certification annually as long as the applicant continues to meet the eligibility criteria.
- (4) Certification as a MWBE does not constitute compliance with any other laws or regulations, including contractor registration or prequalification, and does not relieve any firm of its obligations under other laws or regulations. Certification as a MWBE does not constitute any determination by the office that the firm is responsible or capable of performing any work.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-210 RECONSIDERATION OF DECISION. Decisions to deny certification, deny renewal of certification, or to revoke certification will be reconsidered on the following basis:

- (1) When an applicant has been denied certification, or when a MWBE's certification has not been renewed or has been revoked, the applicant may petition the office for reconsideration of the decision on the grounds that the office did not have all relevant information, that the office misapplied its rules, or that the office otherwise made an error.
- (2) A petition for reconsideration must be in writing and must be received by the office within thirty calendar days of the mailing of the decision, or the decision becomes administratively final. The petition must set forth the grounds on which the applicant believes the decision is in error, including any additional information which the applicant business has to offer.
- (3) Upon receipt of the petition, the office shall review the petition and any additional information, and may conduct further investigation. The office will then notify the applicant by certified mail of its decision either to affirm the denial, the denial of renewal, or revocation of certification or to grant certification.
- (4) ((If a petition for reconsideration is filed, a decision to deny certification following consideration of the

petition is administratively final.)) If a petition for reconsideration is filed and reconsideration is denied, any aggrieved party may request a hearing. The request must be made in writing and must be made within thirty days of service of the decision denying the petition for reconsideration.

AMENDATORY SECTION (Amending Order 83-7, filed January 5, 1984)

WAC 326-30-100 AGENCY/EDUCATIONAL INSTITUTION REPORTING OF MWBE PARTICIPATION. (1) Form. Each state agency and educational institution shall report the participation of MBEs and WBEs in the public works, personal service, and procurement contracts executed by the agency or educational institution. The reports shall be made on a quarterly basis and an annual basis. The reports should designate contracts individually or by class according to the agency's designation in its annual plan. The reports shall also describe the agency's or educational institution's monitoring activity pursuant to sections 8 and 9, Chapter 120, laws of 1983.

- (2) When participation should be reported. Participation by MBEs and WBEs should be reported both when the contract is awarded and when the money is disbursed. For contracts for procurement of goods and services, and personal services, the disbursement should be reported in the quarter in which it is made. For public works contracts, disbursement of funds under all contracts completed in the quarter should be reported, and the reports shall be accompanied by the affidavits of payment executed by the prime contractors for those contracts. Where the performance under a contract extends beyond the fiscal year in which it is awarded, all payments made on the contract will be counted toward the agency's or educational institution's annual overall goal attainment for the year in which it is awarded. Where a contract is awarded to an approved joint venture, an affidavit of the actual disbursement of the funds to the joint venturers, signed by all of the joint ventures, shall accompany the report of disbursement.
- (3) Counting MWBE participation toward meeting goals.
- (a) Award to MBE or WBE. When a contract is awarded, in its entirety, to an MBE or WBE, one hundred percent of the payments on the contract can be counted toward annual, overall goal attainment in the category in which the prime belongs.
- (b) Award to MBE or WBE prime contractor with non-MWBE subcontractor. When a contract is awarded to an MBE or WBE prime contractor with a non-MWBE subcontractor, one hundred percent of the total contract value can be counted toward annual, overall goal attainment.
- (c) Award to non-MWBE prime contractor with MWBE subcontractor. When only a part of the contract is performed by an MBE or WBE, subcontractor, the dollar value of only that percentage of the total contract performed by the MBE or WBE can be counted toward annual, overall goal attainment.
- (d) Award to MBE prime contractor with WBE subcontractor. When a contract is awarded to an MBE

prime contractor with a WBE subcontractor, the dollar value of the percentage of the total contract performed by the WBE can be counted toward the agency's/educational institution's WBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the MBE goal.

- (e) Award to WBE prime contractor with MBE subcontractor. When a contract is awarded to a WBE prime contractor with a MBE subcontractor, the dollar value of the percentage of the total contract performed by the MBE can be counted toward the agency's/educational institution's MBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the WBE goal.
- (f) Joint venture. Where a contract is awarded to a joint venture that includes an MWBE that is responsible for performance of a clearly defined portion of the work, the dollar value, on a percentage basis, of the MWBE's portion of the work may be counted toward annual, overall goal attainment.
- (g) Combination MWBE. Contracts performed totally by a combination MWBE, or partially by a combination MWBE shall be counted by dividing the total dollar value of the contract or portion of contract performed by the combination MWBE by two. One-half of the dollar value will be counted toward the agency's/educational institution's attainment of the MBE goal and one-half will be counted toward the agency's/educational institution's attainment of the WBE goal when the contract contains both MBE and WBE requirements. When the contract contains only an MBE requirement or a WBE requirement, only one-half of the dollar value of the combination MWBE's participation shall be counted toward the agency's/educational institution's attainment of the goal.
- (h) Counting participation by a minority WBE. The agency/institution must count participation by a minority female in only the category she designated in her bid. Her participation cannot be counted toward attainment of both overall annual goals.
- (i) Substitution of MWBEs. When an MBE or WBE which has been awarded a contract is decertified after award or indicates after award that it is unable or unwilling to perform the contract, the agency/institution may not count the MWBE participation toward its overall annual goal attainment.

Where an MBE or WBE is decertified after it has begun to perform the work and the agency/institution determines substitution is impractical, only the percentage of the work performed by an MBE or WBE before the decertification can be counted toward the annual, overall goal attainment of the agency/institution.

Where a certified MBE or WBE is substituted for a decertified business or a business that indicates it is unwilling or unable to perform the work, the dollar value of the work performed by the certified business can be counted toward the agency/educational institution's goal attainment in that category.

(4) Counting Contract Awards. MWBE participation shall be counted toward meeting goals in accordance with the following criteria:

- (a) Where only one state agency/educational institution is involved in setting goals and in the award of the contract, the total dollar value of the contract awarded to or that portion of the work performed by minority and women's business enterprises is counted toward the agency's/educational institution's applicable MBE/WBE goals.
- (b) Where a contract is awarded by a state agency/educational institution acting as an agent for another state agency/educational institution, the goals set by the agent and the total dollar value of the contract awarded to or that portion of the contract work performed by minority and women's business enterprises is counted toward the agent's applicable MBE/WBE goals. This includes contracts awarded by agents in areas usually included under the agency's/educational institution's delegated authorities. Where agents set and count goals, the total dollar value of the contract is excluded from the requesting agency's/educational institution's contracting base.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 326-40-100 JOINT VENTURE APPROV-AL. Money spent on contracts awarded to joint ventures can be counted toward goal attainment by agencies and educational institutions when the procedure outlined in this rule is followed.

- (a) Contents of joint venture agreement. The joint venture agreement must be in writing and signed under penalty of perjury by all of the joint venturers. Each joint venture agreement shall specify the capital contribution made by each joint venturer, the control each will exercise, and the distribution of profit and loss. Each of these elements must be allocated in proportion to their contribution. The joint venture agreement must also identify the commercially useful function the joint venture will perform and the part of the work each joint venturer will do. The agreement must also specify which participant(s) are MBEs and which are WBEs and give documentations of MWBE certification.
- (b) Requests for approval. Any joint venture may request approval by any state agency or educational institution. The request must be in writing, must include a written joint venture agreement and must contain a statement that gives the approving agency/educational institution authority to audit the joint venture. The agreement shall conform to the requirements of subsection (a) of this section. An agency/educational institution shall approve a joint venture which submits an agreement that contains each of these specified elements.
- (c) Time of request. A request for approval of a joint venture must be submitted and approved before the time fixed for bid opening for contracts that are both competitively and non-competitively awarded contracts. If the joint venture is not approved, the agency shall award to the lowest responsive bidder or rebid.
- (d) Effect of approval. An approved joint venture is approved only for one specific contract. Disbursement of

funds to an approved joint venture shall be counted toward goal attainment as described in WAC 326-30-100(3)(f).

- (e) Investigation. The agency or educational institution may request additional information from an enterprise seeking approval as a joint venture. Failure to provide the requested information shall result in the denial of the requested approval.
- (f) Complaints. Complaints regarding the composition or validity of an approved joint venture shall be written and shall be made to the approving agency or educational institution and to OMWBE. The agency or educational institution shall fully investigate each complaint and issue a written report of its findings. The report will be provided to the complainant and to OMWBE. Concurrently, the Office may investigate complaints pursuant to its rules and Chapter 39.19 RCW.

NEW SECTION

WAC 326-40-010 CRITERIA FOR BID SPECI-FICATIONS – MONETARY VALUE. Where a contract for the purpose of goods or services is to be awarded on the basis of competitive bidding and includes goals for MBE and WBE participation, the award shall not be made on the basis of the vendor's level of MWBE participation unless the contract price is within the lower of 5% or \$5,000.00 of the lowest otherwise responsive bid (determined without regard to MWBE participation).

NEW SECTION

WAC 326-40-020 CRITERIA FOR BID SPECI-FICATIONS – AVERAGING MWBE PARTICIPATION. Where a contract for the purpose of goods and services is to be awarded on the basis of competitive bidding, and includes goals for MBE and WBE participation, and no bidder whose bid is within the range established under section 326-40-010 meets the goals established for such contract, the agency shall treat as responsive any bid which is in all other respects responsive and is within the range established under section 326-40-010, and includes MBE and WBE participation equal to or greater than the average participation included in all competitive bids. Competitive bids shall include all otherwise responsive bids which are within 25% of the lowest otherwise responsive bid.

WSR 84-05-035 EMERGENCY RULES DEPARTMENT OF FISHERIES

[Order 84-08-Filed February 17, 1984]

- I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.
- I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that

observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is harvestable numbers of sturgeon are available and these regulations conform state regulations with the Columbia River compact adopted regulations.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED February 17, 1984.

By Russell W. Cahill for William R. Wilkerson Director

NEW SECTION

WAC 220-32-04000V SEASON AND AREA—STURGEON SETLINE. Notwithstanding the provisions of WAC 220-32-040, effective immediately until further notice it is unlawful to take, fish for, or possess sturgeon taken for commercial purposes with setline gear in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the seasons, in the areas, at the times and with the gear and under the provisions designated below:

- (1) 12:00 noon March 1 until 12:00 noon April 30, 1984, in Areas 1A, 1B, 1C and 1D, 12:00 noon March 1 to 12:00 noon March 31, 1984 in that portion of Area 1E downstream from a line due north from the mouth of Oneota Creek on the Oregon shore to a fishing boundary marker on the Washington shore, 12:00 noon March 31 until 12:00 noon April 30, 1984, in that portion of Area 1E downstream from the Interstate 205 Bridge.
- (2) Setline gear is limited to 4 lines per fisherman, not more than 300 hooks per line, with buoys which must float visibly at all times attached to each end of each setline on which buoys must be written in a legible manner the fishing license number of the fisherman operating the setline gear.
- (3) Minimum hook gap inside shank to point is 1 1/8 inches for standard hooks or 1 inch for circle—type hooks, and only single hooks are permitted.
- (4) Gangions must contain an in-line swivel between the groundline and the hook.
- (5) Setlines must be attended once every 48 hours, weather permitting.
- (6) All sturgeon under 48 inches in length and over 72 inches in length must be released immediately and all sturgeon in transit must not have head or tail removed.
- (7) It is unlawful to take sturgeon by angling from any vessel that is engaged in commercial sturgeon fishing, has been engaged in commercial sturgeon fishing that same day, or has commercially caught sturgeon on board.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-04000U SEASONS AND AREA— STURGEON SETLINE. (84-05)

WSR 84-05-036 EMERGENCY RULES DEPARTMENT OF FISHERIES

[Order 84-09-Filed February 17, 1984]

- I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.
- I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are the result of the Columbia River compact and are to allow harvest by treaty Indian fishermen of available salmon.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED February 16, 1984.

By Russell W. Cahill for William R. Wilkerson Director

NEW SECTION

WAC 220-32-05100B SEASONS—SALMON Notwithstanding the provisions of WAC 220-32-051 and WAC 220-32-052, it is unlawful to take, fish for or possess salmon taken for commercial purposes in Columbia River Management and Catch Reporting Areas 1F, 1G or 1H, except that those individuals possessing treaty rights pursuant to the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish immediately until noon, March 21, 1984.

WSR 84-05-037 EMERGENCY RULES DEPARTMENT OF FISHERIES

[Order 84-10—Filed February 17, 1984]

- I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.
- I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are adopted pursuant to the Columbia River compact and are necessary to harvest available salmon.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 16, 1984.

By Russell W. Cahill
for William R. Wilkerson

Director

NEW SECTION

WAC 220-32-03000H GILL NET SEASON. Notwithstanding the provisions of WAC 220-32-030, WAC 220-32-031 and WAC 220-32-032, it is unlawful to take, fish for or possess salmon for commercial purposes with gill net gear in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E, except in those areas, at those times and with the gear designated below:

Areas 1A, 1B, 1C and that portion of 1D downstream from a line perpendicular to the thread of the river from Kelley Point, east bank of Willamette River.

12:00 noon February 19 until 6:00 p.m. February 24, 1984.

12:00 noon February 26 until 6:00 p.m. March 2, 1984

12:00 noon March 4 until 6:00 p.m. March 6, 1984

8 inch minimum mesh restriction.

WSR 84-05-038 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed February 17, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Drugs-Persons eligible, amending WAC 388-91-010;

that the agency will at 10:00 a.m., Wednesday, March 28, 1984, in H-19, Third Floor Conference Room, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 4, 1984.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 28, 1984.

Correspondence concerning this notice and proposed rules attached should be addressed to:

> David A. Hogan, Director Division of Administration and Personnel Department of Social and Health Services Mailstop OB 14 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by March 14, 1984. The meeting site is in a location which is barrier free.

Dated: February 14, 1984 By: David A. Hogan, Director Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-91-010.

Purpose of the Rule or Rule Change: To change the drug formulary for GAU recipients.

The Reason(s) These Rules are Necessary: Change in the policy of the Division of Medical Assistance.

Statutory Authority: RCW 74.08.090.

Summary of the Rule or Rule Change: GAU recipients will have the same drug formulary as medical assistance recipients.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, Phone: 3-7316, Mailstop: LK-11.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

AMENDATORY SECTION (Amending Order 1684, filed 7/29/81)

WAC 388-91-010 DRUGS-PERSONS ELIGIBLE. (1) A drug formulary will list all drug preparations which are provided without prior approval of medical consultant. It will include a description of program limitations, rules and program policy and penalties. The decision to place drugs in the division of medical assistance program drug formulary is based on these criteria:

- (a) The drug must be established as a part of necessary and essential care for the condition for which it is to be used.
- (b) The drug must be in general use by the physicians practicing in Washington.
- (c) The drug must be of moderate cost. Generic forms will be used when listed under DSHS or federal maximum allowable cost (MAC) programs. When two preparations of equal effectiveness but disparate costs are presented, the less expensive one will be selected for the formulary.
- (d) Drugs must not be classified (("ineffective" or "possibly effective")) "less than effective" by the food and drug administration.

(e) The drug must not be experimental.

(2) The following process is used to determine the acceptability of a drug preparation for possible listing in the formulary:

- (a) Objective, scientific information and utilization data is reviewed for appropriateness according to the criteria in subsection (1) of this section, by the program medical staff, or,
- (b) The secretary may appoint an advisory committee in accordance with RCW 43.20A.360 to review and advise the division of medical assistance on the acceptability of the drug preparation.
- (c) The medical director or his designee may make appropriate changes in the formulary consistent with subsection (1) of this section, and may accept recommendations of the advisory committee providing that action is in compliance with regulations governing the program and with acceptable management policies.
- (d) Acceptable drugs will be included in the next subsequent edition of the formulary.
- (3) In accordance with the department's rules and regulations drugs are provided for((:
- (a))) the necessary and essential medical care of recipients of medical assistance, medical care services and the limited casualty program.
- (((b) Recipients of state-funded medical care are furnished maintenance medications as listed by therapeutic classifications in the current division of medical assistance drug formulary. These persons are identified by the notation "GAU" on their medical identification coupons.))

WSR 84-05-039 ADOPTED RULES **DEPARTMENT OF** SOCIAL AND HEALTH SERVICES (Public Assistance)

[Order 2075—Filed February 17, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Eligibility determination—Medically needy in own home, amending WAC 388-99-020.

This action is taken pursuant to Notice No. WSR 84-02-017 filed with the code reviser on December 28, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rulemaking authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED February 15, 1984.

By David A. Hogan, Director

Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2006, filed 8/23/83)

WAC 388-99-020 ELIGIBILITY DETERMINATION—MEDICALLY NEEDY IN OWN HOME. (1) The medically needy income level (MNIL) shall be:

(a) One person	\$	((343))
(1) T	•	353
(b) Two persons	\$	((493)) 509
(c) Three persons	\$	((519))
•		527
(d) Four persons	\$	544
(e) Five persons	\$	627
(f) Six persons	\$	710
(g) Seven persons	\$	822
(h) Eight persons	\$	909
(i) Nine persons	\$	998
(j) Ten persons	\$	1,084
and above		

- (2) For families and children countable income is determined by deducting, from gross income, amounts that would be deducted in determining AFDC grant eligibility. Earned income exemption of \$30 plus 1/3 of the remainder does not apply for individuals applying solely for medical assistance.
- (3) For aged, blind, and disabled individuals countable income is determined by deducting, from gross income, amounts that would be deducted in determining eligibility for the state supplementary payment.
- (4) If countable income is equal to or less than the appropriate MNIL, the family or individual is certified eligible.
- (5) If countable income is greater than the appropriate MNIL, the applicant is required to spenddown the excess countable income for the base period. The base period shall be the three-month or six-month period which corresponds to the certification period, see WAC 388-99-055.
 - (6) Financial responsibility of relatives.
 - (a) For families and children,
- (i) Income and resources of spouse or parent are considered available to the applicant whether or not actually contributed if they live in the same household.
- (ii) Income and resources of spouse or parent are considered only to the extent of what is actually contributed if not in same household.
- (b) For aged, blind, and disabled, see chapter 388-92 WAC for deeming of income.
- (7) In mixed households, where more than one assistance unit exists, determine income for the AFDC related assistance unit according to subsection (2) of this section, and for the SSI related assistance unit according to subsection (3) of this section.

WSR 84-05-040 ADOPTED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2076—Filed February 17, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd ch. 388-08 WAC Practice and procedure—Fair hearings.

Amd ch. 388-09 WAC Practice and procedure—Administrative hearing—Child.

Amd WAC 388-96-904 Administrative review process.

This action is taken pursuant to Notice No. WSR 83-24-008 filed with the code reviser on November 29, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 34.04.020 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED January 18, 1984.

By David A. Hogan, Director Division of Administration and Personnel

NEW SECTION

WAC 388-08-00201 SCOPE OF CHAPTER 388-08 WAC. Chapter 10-08 WAC governs the aspects of administrative practice and procedure in contested cases from issuance of the notice of hearing through issuance of a proposal for decision, initial decision, or final decision if no proposal for or initial decision is required or issued. Chapter 388-08 WAC governs all other aspects of administrative practice and procedure within the department of social and health services unless otherwise provided by department rule.

AMENDATORY SECTION (Amending Order 1657, filed 5/29/81, effective 7/1/81)

WAC 388-08-00401 AUTHORITY TO ADJUDI-CATE. ((In accordance with chapter 43.20A RCW, the following delegations of authority to adjudicate contested cases as defined in RCW 34.04.010(3) are hereby made to all duly appointed and qualified hearings examiners, which includes supervisors and review examiners, within the office of hearings.))

- (1)(a) ((Unless otherwise provided by administrative regulation or statute, hearings examiners shall have the following powers and duties:
- (a) To conduct all contested case hearings arising within the department of social and health services.
- (b))) In ((all)) cases in which the ((office of hearings)) department has sixty days or less from the date of receipt of the request for hearing to issue a final administrative decision, ((hearings examiners are authorized

- to)) the administrative law judge shall prepare a ((proposed administrative)) proposal for decision or order which shall be submitted to the ((hearings authority)) review judge for review and issuance of a final administrative decision or order.
- (((c))) (b) In ((all)) cases in which the ((office of hearings)) department has more than sixty days from the date of receipt of the request for hearing to issue a final administrative decision ((or order)), ((hearings examiners are authorized to)) the administrative law judge shall prepare and issue an initial ((administrative)) decision ((or order)).
- (((d) In addition to the powers set forth in subdivisions (1) (a), (b), and (c) of this section, hearings examiners designated as review examiners are authorized to act as the hearing authority to review proposed and initial administrative decisions and orders as appropriate, and to issue final administrative decisions and orders on behalf of the secretary or department.))
- (2) The ((hearings examiner)) administrative law judge and the review judge shall, in adjudicating contested cases, apply as the first source of law governing the issue or issues of the hearing rules of the department as adopted in the Washington Administrative Code and any precedential ((decision(s))) decision or decisions applicable to ((said rules)) the issue or issues.
- (3) If there is no department ((rule(s))) rule or rules or precedential ((decision(s) which fully governs)) decision or decisions governing the ((issue(s))) issue or issues raised, ((hearings examiners)) the administrative law judge and review judge shall resolve the ((issue(s) raised)) issue or issues on the basis of the best legal authority and reasoning available, including that found in the state and federal constitutions, Washington statutes and regulations, federal statutes and regulations, and state and federal ((appellate)) court decisions. The ((hearings examiner)) administrative law judge and review judge shall not have the power to declare invalid any section of the Washington Administrative Code. If the validity of any section of the Washington Administrative Code is raised as an issue at any hearing, the ((hearings examiner)) administrative law judge and review judge shall permit arguments to be made on the record concerning that issue for subsequent review purposes: PROVIDED, That where the sole issue is one of state or federal law requiring automatic ((grant)) assistance, benefit, scope of program, or fee or regulation adjustments for classes of ((recipients)) people the department serves or regulates, the ((examiner)) administrative law judge and review judge shall ((deny or)) dismiss the request for a hearing without permitting argument to be made on the record regarding the validity of any section of the Washington Administrative Code.
- (((4) A list of all duly appointed and qualified hearings examiners shall be maintained in the Office of Hearings, Post Office Box 2465, Mail Stop OB-43, Olympia, Washington 98504, and be made available for public inspection and copying:
- (5) The chief, office of hearings, and such subordinate personnel he/she may appoint shall adopt operational and procedural instructions as they feel necessary to ensure the most efficient and effective operation of the

office consistent with the due process rights of parties in contested case hearings.))

AMENDATORY SECTION (Amending Order 768, filed 1/10/73)

WAC 388-08-006 ((FAIR)) ADMINISTRATIVE HEARING—FORM OF REQUEST. Any person or ((person(s) acting for him entitled to and desiring a fair hearing under RCW-74.08.070 shall within time limits provided by law,)) authorized representative may make an oral or written request for a hearing ((with the secretary of the department)). The request need not be in any particular form but should specify the decision with which the ((petitioner)) appellant is dissatisfied and the date he or she was notified by the ((local office)) department of the decision the appellant is appealing. The request, if oral, should be confirmed in writing within fifteen days and ((shall be)) signed by the ((petitioner)) appellant, or his ((legal guardian, attorney, or other person acting for him. The day the oral request is made, however, is the day of the act or event for computation of time purposes as prescribed in WAC 388-08-083)) or her representative. An oral request must be made to a responsible department employee. A written request for a hearing should be mailed to Office of Hearings, P.O. Box 2465, Olympia, Washington 98504.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 768, filed 1/10/73)

WAC 388-08-00601 ((FAIR)) ADMINISTRA-TIVE HEARING—GROUP HEARING. (1) When more than one ((individual)) appellant requests a ((fair hearing to protest department policy, the department may hold a group hearing with the agreement of the individuals and shall hold such group hearing upon request of the individuals)) hearing to appeal a similar issue or issues, the appeals may be consolidated by the department and heard as a group.

(2) An appellant scheduled for a group hearing may withdraw from a group hearing in favor of an individual hearing. A motion to withdraw filed by an appellant before the administrative law judge has made a discretionary ruling and before the date of hearing shall be granted, motions to withdraw filed later shall be granted by the administrative law judge if the group hearing caused the appellant expense, embarrassment or unreasonably delayed decision rendering.

(((2))) (3) ((Hf)) In a group hearing ((is held)), each individual retains his or her right to representation of his or her choice. ((An appellant scheduled for a group hearing may withdraw from a group hearing in favor of an individual hearing.))

AMENDATORY SECTION (Amending Order 952, filed 7/16/74)

WAC 388-08-010 ((FAIR)) ADMINISTRATIVE HEARING—((APPEARANCE AND PRACTICE BEFORE DEPARTMENT—))WHO MAY APPEAR

AS A REPRESENTATIVE. The appellant ((in a fair hearing under RCW 74.08.070 shall be afforded the opportunity of presenting his case by himself and)) may represent himself or herself, or the appellant may be represented by legal counsel or by a relative, friend, or other ((spokesman, but shall)) person. The appellant may not be represented at ((such)) an administrative hearing by an employee of the department. Nothing in this regulation shall be construed as prohibiting an employee of the department from acting as a witness on behalf of an appellant, ((nor)) or from referring ((such)) an appellant to legal resources in the community, assisting the appellant in obtaining nonconfidential information available to the appellant, or from advising the appellant as to possible arguments which can be made against the ((ruling)) decision being appealed.

AMENDATORY SECTION (Amending Order 1695, filed 8/19/81)

WAC 388-08-405 WITHDRAWAL—DIS-MISSAL—SETTLEMENT. (1) ((The hearings examiner may deny or dismiss a request for a fair hearing)) An administrative law judge or review judge shall dismiss a request for a hearing when:

- (a) ((Where it has been withdrawn by the appellant in writing)) The appellant has withdrawn the appeal, or
- (b) ((Where the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients, or
- (c) Where the appellant has abandoned the request for a hearing. If the appellant fails to appear at a hearing in person or by representative without good cause the hearings examiner shall deem the appellant to have abandoned the appeal. Where the request has been dismissed as abandoned and the appellant wants the request to be reinstated, the appellant must petition to have the request reinstated within fifteen days of the date the order of dismissal was mailed by the hearings examiner. The petition must state good cause for the failure to appear at the hearing)) The appellant has abandoned the appeal.
- (c) The sole issue is one of state or federal law requiring automatic assistance, benefit, scope of program, or fee adjustments for classes of people the department serves or regulates. The administrative law judge or review judge shall dismiss such appeals without permitting argument to be made on the record regarding the validity of any section of the Washington Administrative Code
- (2) Each party has the right to petition to reinstate an appeal that has been dismissed. The petition must show good cause to reinstate the appeal. If, in the reasoned opinion of the administrative law judge or review judge, good cause to grant the relief is shown, then he or she shall reinstate the appeal.
- (((2))) (3) An appeal may be concluded by a written ((stipulated)) settlement signed by the appellant (or ((his/her)) his or her representative) and signed by the authorized department representative and approved by ((the examiner)) an administrative law judge or review judge.

AMENDATORY SECTION (Amending Order 1426, filed 8/24/79)

WAC 388-08-406 ((SPECIAL PROCEDURES FOR FOOD STAMP HEARINGS)) DECISION RENDERING PROCEDURE—PROPOSAL FOR DECISION. ((The time limit for rendering a decision and the decision—making procedures set forth in WAC 388-08-407 through 388-08-413 shall not apply to hearings involving the food stamp program. Those hearings are governed by WAC 388-54-815)) (1) Any party adversely affected by a proposal for decision may file written argument and exception with the office of hearings. Written argument and exception must be filed in ten days or less from the date the proposal for decision was mailed to the parties.

- (a) The ten-day period to file exception and argument may be extended by the review judge upon motion of a party when the motion is filed during the ten-day period and good cause for the extension is shown.
- (b) The ten-day time limit for filing exception and argument to a proposal for decision may be waived by the review judge where the petitioner demonstrates good cause for failure to timely file. Good cause includes mistake, inadvertence, and excusable neglect on the part of petitioner or unavoidable casualty or misfortune preventing the petitioner from timely filing. Upon a showing of good cause either party may file exception and argument within thirty days of the date the final decision was mailed to the parties.
- (2) The secretary or his or her designee shall personally consider the whole record or such portions of the record as cited by a party or parties in the exception and argument. The secretary or designee shall render the final department decision.
- (3) The secretary or his or her designee may accept additional evidence to correct omissions in the record upon his or her own motion or the motion of a party.
- (4) The secretary or his or her designee may remand the proceedings to the administrative law judge for additional evidence or argument if:
- (a) Neither party cited the law correctly applicable to the issue or issues defined at the hearing and additional evidence or argument is needed to reach a reasoned decision.
- (b) Irregularity in the proceedings occurred by which the party seeking review was prevented from having a fair hearing and additional evidence or argument is necessary to cure the irregularity, or
- (c) The secretary or his or her designee considers a remand necessary and both parties assent to the remand.

AMENDATORY SECTION (Amending Order 1426, filed 8/24/79)

WAC 388-08-409 PETITION FOR REVIEW BY ((HEARING AUTHORITY)) REVIEW JUDGE. (1) ((Within 15)) In fourteen days ((of)) or less from the mailing of the initial order or decision, either party may petition ((the hearing authority)), in writing, for review of the initial order or decision with the review judge (designee of the secretary). The petition for review shall set forth in detail the basis for the requested review, and

shall be mailed postage prepaid to the office of hearings and to the other party at ((his/her)) his or her last known address.

(2) The petition shall be based on any one of the following grounds materially affecting the substantial

rights of a party:

- (a) Irregularity in the proceedings by which the ((moving)) petitioning party was prevented from having a fair hearing. This includes misconduct by the prevailing party and misconduct or abuse of discretion by the ((hearings examiner)) administrative law judge.
- (b) The findings of fact are unsupported by substantial evidence in view of the entire record,
 - (c) Errors of law,
- (d) Need for clarification in order for the parties to implement the decision.
- (3) The ((responding)) other party may respond in writing to the petition for review. The response shall be mailed postage prepaid to the office of hearings and to the ((other party)) petitioner at ((his/her)) his or her last known address.

AMENDATORY SECTION (Amending Order 1426, filed 8/24/79)

WAC 388-08-413 PROCEDURE ON REVIEW BY ((HEARING AUTHORITY)) REVIEW JUDGE.

(1) A petition for review shall be granted only if, in the reasoned opinion of the ((hearing authority)) review judge, one of the grounds for review set forth in WAC 388-08-409(2) is shown. Otherwise, the petition for review shall be denied and the initial order or decision shall be the final decision of the secretary as of the date of denial of the ((petition(s))) petition or petitions for review.

- (2) In determining whether to grant review and in reviewing the initial <u>order or</u> decision, the ((hearing authority)) review judge shall consider the initial <u>order or</u> decision, the ((petition(s))) petition or petitions for review, the record or any part thereof and any additional evidence submitted by the agreement of both parties in accordance with WAC 388-08-413(4).
- (a) The ((15-day)) fourteen-day time limit established by WAC 388-08-409 for filing a petition for review of an initial order or decision shall be waived where the petitioner demonstrates good cause for failure to file a timely petition for review. Good cause includes mistake, inadvertence, and excusable neglect on the part of petitioner or unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review. Upon a showing of good cause, either party may petition for review of an initial order or decision within ((30)) thirty days of the date the initial order or decision becomes final.
- (b) The ((15-day)) fourteen-day time limit established by WAC 388-08-409 for filing a petition for review of the initial order or decision shall be waived where petitioner demonstrates that the initial decision was not received by petitioner. In such case the petitioner may petition for review of the initial decision within a reasonable period of time.

- (3) If review is granted, the ((hearings examiner's)) administrative law judge's initial findings of fact, conclusions of law, and decision shall not be modified by the ((hearing authority)) review judge unless, in the reasoned opinion of the ((hearing authority)) review judge:
- (a) Irregularity in the proceedings occurred by which the ((moving)) petitioning party was prevented from having a fair hearing. This includes misconduct by the prevailing party and misconduct or abuse of discretion by the ((hearing examiner)) administrative law judge and/or
- (b) The findings of fact are unsupported by substantial evidence in view of the entire record and/or
- (c) The application of law in the conclusions is erroneous and/or
- (d) There is need for clarification in order for the parties to implement the decision.
- (4) The ((hearing authority)) review judge may accept additional evidence to correct omissions in the record, but only after notice to and agreement by both parties.
- (5) The ((hearing authority)) review judge may remand the proceedings to the ((hearings examiner)) administrative law judge for additional evidence or argument if:
- (a) Neither party cited the law correctly applicable to the ((issue(s))) issue or issues defined at the hearing and additional evidence or argument is needed for the ((hearing authority)) review judge to reach a reasoned decision. Nothing in this subsection shall be construed to allow the ((hearing authority)) review judge to remand the case to consider additional grounds for denial, termination, or ineligibility for assistance which were not alleged by the department at the hearing.
- (b) Irregularity in the proceedings occurred by which the party seeking review was prevented from having a fair hearing and additional evidence or argument is necessary to cure the irregularity or
- (c) The ((hearing authority)) review judge considers a remand necessary and both parties assent to the remand.
- (6) If review is granted, the ((hearing authority)) review judge shall render a reasoned decision affirming, reversing, modifying, or remanding the initial order or decision.
- (7) ((That)) The review decision shall be final on the date of filing and shall be the final decision of the secretary. The ((hearing authority)) review judge shall file the original of the ((final)) decision in the record of the proceedings and shall mail copies to the parties and their representatives.

AMENDATORY SECTION (Amending Order 1657, filed 5/29/81, effective 7/1/81)

WAC 388-08-416 SELECTED FINAL DECI-SIONS AS PRECEDENT. (1) In order to promote consistency of final decisions on like issues of fact and law, the ((office of hearings shall)) chief review judge may identify certain final decisions or portions thereof which may be relied upon, used, or cited as precedents during the hearing and review processes. In determining which decisions will be so identified, the ((office of hearings)) chief review judge shall give preference to:

- (a) Decisions ((which)) usefully ((illustrate)) illustrating proper application of general legal principles or procedures ((that have been)) adequately developed through administrative and/or judicial review;
- (b) Decisions ((which clarify)) clarifying the meaning of undefined or inadequately defined regulatory terms or phrases;
- (c) Decisions ((which provide)) providing particularly well-supported conclusions on legal issues ((which have been)) raised in many cases with conflicting results;
- (d) Decisions ((which reflect)) reflecting significant departure from prior ((hearings practice)) final decisions or portions thereof;
- (e) Decisions in which an existing precedential decision or any portion thereof is distinguished, modified, or overruled;
- (f) Decisions resulting from hearings in which both parties were adequately represented and the issues were fully briefed.
- (2)(a) ((Final decisions, or portions thereof which meet one or more of the criteria in WAC 388-08-416 (1)(a), (b), (c), (d), (e), or (f) shall be selected by majority vote of the chief review examiner and at least two other review examiners as may from time to time be selected for such purpose by the chief, office of hearings. The chief review examiner shall make available said decisions so selected to interested or affected parties for the purpose of soliciting comment on the appropriateness of assigning said decisions with precedential value)) The chief review judge shall make and maintain a list of people writing to him or her stating they desire to receive notice of and offer comments regarding decisions or portions of decisions the chief review judge selects for consideration as precedential.

(b) When the chief review judge selects a decision or portion for consideration as precedential, he or she shall mail notice thereof to the people who so requested.

- (((3))) (c) Interested ((or affected)) parties shall have thirty days from the date of mailing the notice of selection for consideration as a precedential decision to provide the chief review ((examiner)) judge with comments on the appropriateness of assigning ((said decisions)) the decision or portion with precedential value.
- (((4))) (d) The chief review ((examiner and the selected review examiners)) judge shall ((fully)) consider all ((such)) comments prior to final designation or rejection of ((said)) a decision((s)) or portion of a decision as precedential.
- (((5))) (3) Decisions and portions of decisions adopted as precedential ((decisions shall be indexed. Said decisions and index thereof)) shall be ((available to the public in)) maintained by the chief review judge at the office of hearings((, post office box 2465,)) in Olympia, Washington ((98504)), and ((distributed to interested parties, including, but not limited to, individuals and groups frequently representing appellants and the department in hearings)) shall be public records.
- (6) Nothing in this section limits the secretary's authority to adopt rules pursuant to the Administrative Procedure Act, specifically including rules ((which modify)) modifying or ((overrule)) overruling a holding in a precedential decision.

(7) Precedential decisions ((as described in this section)) may be used by ((the staff of the office of hearings)) administrative law judges and review judges, appellants, and their representatives, and department representatives in connection with the hearings process. Precedential decisions are binding on ((hearings examiners)) administrative law judges in rendering ((the)) a proposal for decision or order or an initial decision or order. Precedential decisions are binding on review ((examiners)) judges when rendering a decision after a party has filed exception or argument or a petition for review unless clear and substantial argument is presented which, in the reasoned opinion of the review ((examiner)) judge, demonstrates ((that)) a precedential decision should be modified or reversed. Precedential decisions shall not be used by employees of the department as a substitute for manual provisions or numbered policy memoranda.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 388-08-00101 FAIR HEARING—DEFINITIONS.
- (2) <u>WAC 388–08–002</u> FAIR HEARING—STAT-UTORY BASIS.
- (3) WAC 388-08-050 FAIR HEARING—AP-PEARANCE BY FORMER EMPLOYEE OF DEPARTMENT.
- (4) <u>WAC 388-08-055</u> FAIR HEARING—ATTENDANCE AT HEARING—REPORTING.
- (5) WAC 388-08-080 NOTICE AND OPPORTUNITY FOR HEARING.
- (6) <u>WAC 388-08-083</u> NOTICE AND OPPORTUNITY FOR HEARING—COMPUTATION OF TIME.
- (7) <u>WAC 388-08-150</u> SUBPOENAS—WHERE PROVIDED BY LAW—FORM.
- (8) WAC 388-08-160 SUBPOENAS—ISSUANCE TO PARTIES—ISSUANCE BY DEPARTMENT.
 - (9) WAC 388-08-170 SUBPOENAS—SERVICE.
 - (10) <u>WAC 388-08-180</u> SUBPOENAS—FEES. (11) <u>WAC 388-08-190</u> SUBPOENAS—PROOF
- (11) <u>WAC 388–08–190</u> SUBPOENAS—PROOF OF SERVICE..
- (12) <u>WAC 388–08–200</u> SUBPOENAS—QUASHING.
- (13) <u>WAC 388-08-210</u> SUBPOENAS—ENFORCEMENT.
- (14) WAC 388-08-220 SUBPOENAS—GEO-GRAPHICAL SCOPE.
- (15) WAC 388-08-230 DEPOSITIONS AND INTERROGATORIES.
- (16) WAC 388-08-235 QUESTIONNAIRES—PETITIONER OR WITNESS OUT OF STATE.
- (17) <u>WAC 388–08–375</u> OFFICIAL NOTICE—MATTERS OF LAW—MATERIAL FACTS.
 - (18) WAC 388-08-390 PRESUMPTIONS.
- (19) WAC 388-08-400 STIPULATIONS AND ADMISSIONS OF RECORD.
- (20) WAC 388-08-407 TIME LIMIT FOR RENDERING DECISION.

- (21) WAC 388-08-408 INITIAL DECISION.
- (22) WAC 388-08-414 FORM, CONTENT, AND EFFECTIVE DATE OF DECISION.
- (23) <u>WAC 388-08-420</u> DEFINITION OF ISSUES BEFORE HEARING.
- (24) <u>WAC 388-08-430</u> PRE-HEARING CONFERENCE RULE—AUTHORIZED.
- (25) WAC 388-08-440 PRE-HEARING CONFERENCE RULE—RECORD OF CONFERENCE ACTION.
- (26) WAC 388-08-450 SUBMISSION OF DOC-UMENTARY EVIDENCE IN ADVANCE.
- (27) WAC 388-08-470 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—NUMBER AND QUALIFICATIONS OF WITNESSES.
- (28) <u>WAC 388-08-480</u> EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—WRITTEN SWORN STATEMENTS.
- (29) WAC 388-08-490 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—SUPPORTING DATA.
- (30) WAC 388-08-500 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—EFFECT OF NONCOMPLIANCE.
- (31) <u>WAC 388-08-503</u> EXPERT OPINION OR WRITTEN TESTIMONY—MEDICAL ASSESSMENT.
 - (32) WAC 388-08-510 CONTINUANCES.
- (33) WAC 388-08-520 RULES OF EVI-DENCE—ADMISSIBILITY CRITERIA.
 - (34) WAC 388-08-600 JUDICIAL REVIEW.

AMENDATORY SECTION (Amending Order 525, filed 3/31/71, effective 5/1/71)

WAC 388-09-010 ADMINISTRATIVE HEAR-ING—CHILD WELFARE AGENCY—DENIAL, SUSPENSION, REVOCATION, OR NONRENEW-AL OF LICENSE. (1) Whenever the ((director shall have)) secretary has reasonable cause to believe ((that)) in the administration of chapter 74.15 RCW grounds exist for the denial, suspension, or revocation of a license, or ((that)) a licensee has failed to qualify for renewal of a license, he or she shall notify the licensee in writing by certified mail, stating the grounds upon which ((it is proposed that)) the secretary proposes the license be denied, suspended, revoked, or not renewed.

(2) Within thirty days from the receipt of notice of the grounds for denial, suspension, revocation, or lack of renewal, the licensee may serve upon the ((director)) secretary a written request for hearing. Service of a request for hearing shall be made by certified mail. Upon receiving a request for hearing, the ((director)) secretary shall fix a date upon which the matter may be heard, which date shall be not less than thirty-five days from the receipt of the request for hearing, and he or she shall also notify the child welfare and day care advisory committee not less than twenty-five days before the hearing date. If no request for hearing is made within the time

specified, the license shall be deemed denied, suspended, or revoked.

AMENDATORY SECTION (Amending Order 525, filed 3/31/71, effective 5/1/71)

WAC 388-09-020 ADMINISTRATIVE HEAR-ING—APPLICABILITY OF CHAPTER 388-08 WAC. ((In a hearing under WAC 388-09-010, 388-08-083 through 388-08-590 shall apply)) The rules in chapter 388-08 WAC which do not conflict with the provisions of chapter 388-09 WAC shall apply to a hearing requested under this chapter.

NEW SECTION

WAC 388-09-040 TIME LIMIT FOR RENDER-ING DECISION. (1) The administrative judge shall take reasonable efforts to render the initial decision within thirty days of the record being completed, exclusive of continuances requested by or consented to by both parties.

(2) The review judge shall take reasonable efforts to render the review decision within thirty days of the record on review being completed, exclusive of continuances requested by or consented to by both parties.

AMENDATORY SECTION (Amending Order 1892, filed 10/13/82)

WAC 388-96-904 ADMINISTRATIVE REVIEW PROCESS. (1) Within thirty days after a contractor is notified of an action or determination it wishes to challenge, it shall request in writing that the appropriate director((, bureau of nursing home affairs)) or his or her designee (((director, BNHA))) review such determination. The request shall be forwarded to the director, audit division, if the challenge pertains to audit findings (adjusting journal entries or AJEs) or other audit matters, or to the director, bureau of nursing home affairs (director, BNHA) for other matters (such as rates, desk reviews, and settlements). The request shall be signed by the contractor or the licensed administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the issues and regulations involved and the grounds for its contention that the determination is erroneous. Copies of any documentation on which the contractor intends to rely to support its position shall be included with the request.

- (2) After receiving a timely request meeting the criteria of this section, the department will contact the contractor to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no earlier than fourteen days after the contractor was notified of the conference and no later than ((thirty)) ninety days after a properly completed request is received unless both parties agree in writing to a specific later date. The conference may be conducted by telephone unless either the department or the contractor requests in writing that the conference be held in person.
- (3) The contractor and appropriate representatives of the department shall participate in the conference. In addition, representatives selected by the contractor may

participate. The contractor shall bring to the conference, or provide to the department in advance of the conference, any documentation requested by the department which the contractor is required to maintain for audit purposes pursuant to WAC 388-96-113 and any documentation on which it intends to rely to support its contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

- (4) Regardless of whether agreement has been reached at the conference, a written decision by the <u>appropriate</u> director((, BNHA)) or his or her designee will be furnished to the contractor within sixty days after the conclusion of the conference.
- (5) ((If the contractor desires review of an adverse decision of the director, BNHA, or his or her designee, it shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the Administrative Procedure Act, chapter 34.04 RCW)) A contractor who is aggrieved by a decision of the director may appeal the decision in an administrative hearing.
- (a) A contractor who desires an administrative hearing shall file a written request for a hearing with the department's office of hearings (mailing address: P.O. Box 2465, Olympia, WA 98504). The request for hearing must be filed within thirty days of the date the contractor received the decision of the director that he or she desires to appeal. A copy of the director's decision being appealed must be attached to the request for hearing. The request shall be signed by the contractor or the licensed administrator of the facility, and shall state as specifically as practicable the issue or issues and regulation or regulations involved, and the grounds for contending the director's decision is erroneous. Copies of any documentation on which the contractor intends to rely to support its position shall be included with the request.
- (b) Sections of chapter 388-08 WAC not conflicting with this section shall apply to a hearing requested under WAC 388-96-904(5).

WSR 84-05-041 PROPOSED RULES DEPARTMENT OF REVENUE

[Filed February 17, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning timber excise tax credit for personal property tax, new section WAC 458-40-19005;

that the agency will at 10:00 a.m., Tuesday, March 27, 1984, in the Conference Room, Forest Tax Division, Room 303, Evergreen Plaza Building, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 84.33.072, 84.32.010 and 84.32.300 [82.32.010 and 82.32.300].

The specific statute these rules are intended to implement is RCW 84.33.077.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 27, 1984.

Dated: February 16, 1984

By: John B. Conklin

Forest Tax Supervisor

STATEMENT OF PURPOSE

Title: Timber excise tax credit for personal property tax, WAC 458-40-19005.

Statutory Authority: RCW 84.33.072, 84.32.010 and 84.32.300 [82.32.010 and 82.32.300].

Statute Implemented by the Proposed Rule: RCW 84.33.077.

Summary of Rule: Persons engaged in the business as harvesters of timber from public land shall be allowed to take a tax credit against the timber excise tax imposed under RCW 84.33.071 for any personal property taxes paid to a county on such public timber sales. The amount of the credit shall not exceed the amount of excise tax due on public timber, and credits shall not be allowed for delinquent property taxes.

Agency Personnel Responsible for Drafting, Implementing and Enforcing Rule: John B. Conklin, Forest Tax Supervisor, Department of Revenue, General Administration Building, Olympia, Washington 98504, Phone: 753-7086.

Rule Proposed by: Washington State Department of Revenue.

Agency Comments: None.

Federal Statutory Reference: None.

Small Business Economic Impact Statement: None.

NEW SECTION

WAC 458-40-19005 TIMBER EXCISE TAX CREDIT FOR PERSONAL PROPERTY TAX. (1) General. Pursuant to RCW 84-33.077 and 84.36.473, persons engaged in business as harvesters of timber from public land shall be allowed to take a tax credit against the timber excise tax imposed under RCW 84.33.071 for any personal property taxes paid to a county on such public timber sales. The credit shall be allowed only for property taxes paid on public timber purchased on or after August 1, 1982. The credit shall be taken only on excise taxes due on timber harvested from public land. No excise tax credits shall be allowed against excise taxes due on timber harvested from private land.

- (2) Definition of public timber. Public timber shall mean all timber standing on, or harvested or removed from land owned by federal, state, county, or municipal government or other government entity. Public timber shall not include timber standing on, or harvested or removed from Indian tribal land.
- (3) Amount of credit. The total dollar amount of all excise tax credits claimed on one or more sales shall not exceed the total amount of all personal property taxes levied and paid on such timber. No excise tax credit shall be allowed for property tax penalties or interest charges imposed on delinquent property taxes. No excise tax credits shall be allowed prior to payment of personal property taxes, and the amount of credit allowed shall not exceed the amount of property tax actually paid as certified by the county treasurer.
- (4) Excess credits, refunds. If the amount of the credit exceeds the amount of timber excise tax due for the calendar quarter in which the

credit is claimed, the excess credit shall be carried forward to the next quarterly reporting period and applied against the amount of timber excise tax due, if any, on public timber. Excise tax refunds for unused credit shall be made only if the taxpayer has no public timber sales pending against which to apply the unused credit.

(5) Credit application procedures. Taxpayers who wish to claim timber excise tax credits for personal property taxes paid must make application on forms prepared by the department of revenue. The application form must be completed in full and certified with the signatures of the county assessor and the county treasurer of the county in which the property taxes were paid. Credit application forms shall be made available in the offices of county assessors, county treasurers and the department of revenue. Credit applications must be submitted with timber excise tax returns for taxes due on public timber.

WSR 84-05-042 PROPOSED RULES DEPARTMENT OF FISHERIES

[Filed February 17, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning personal use rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 27, 1984.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 27, 1984.

Dated: February 17, 1984
By: Russell W. Cahill
for William R. Wilkerson
Director

STATEMENT OF PURPOSE

Title: WAC 220-57-140.

Description of Purpose: Modify bag limit and seasonal restrictions.

Statutory Authority: RCW 75.08.080.

Summary of Rule: Impose special bag limit of six salmon more than ten inches in length, not more than two of which can be chum salmon, with chinook salmon over 24 inches and coho salmon over 20 inches being released immediately in those waters of the Chehalis River downstream from the Porter Bridge to the U.P.R.R. Bridge during the period September 1 through January 31.

Reason Supporting Proposed Action: Adult chinook and coho salmon are needed for spawning while a limited number of chum salmon will be available for harvest.

Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 754–2429; Implementation: Edward P. Manary, 115 General Administration Building, Olympia, Washington, 753–6631; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, Washington, 753–6585.

This rule is proposed by the Washington Department of Fisheries.

Comments: No public hearing is scheduled.

This rule is not the result of federal law or any court order.

Small Business Economic Impact Statement: No effect; this rule proposal regards recreational angling.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-140 CHEHALIS RIVER. (((1+))) Special bag limit ((C)) - Six salmon not less than ten inches in length, not more than two of which may be chum salmon. Chinook salmon greater than 24 inches in length and coho salmon greater than 20 inches in length must be released immediately. - ((December)) September 1 through ((September 14)) January 31: Downstream from the Porter Bridge to the Union Pacific Railroad Bridge in Aberdeen.

(((2) Bag limit A — September 15 through November 30: Downstream from the Porter Bridge to the Union Pacific Railroad Bridge in Aberdeen, except that all chinook salmon over 24 inches must be released.))

WSR 84-05-043 PROPOSED RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed February 21, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning Special service programs—Chapter 2 of the Education Consolidation and Improvement Act of 1981, financial assistance to local school districts, chapter 392–165 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 27, 1984

The authority under which these rules are proposed is RCW 28A.02.100.

This notice is connected to and continues the matter in Notice Nos. WSR 84-02-022 and 84-05-015 filed with the code reviser's office on December 29, 1983, and February 9, 1984.

Dated: February 21, 1984
By: Frank B. Brouillet
Superintendent of Public Instruction

WSR 84-05-044 ADOPTED RULES DEPARTMENT OF TRANSPORTATION

[Order 88—Filed February 21, 1984]

I, Duane Berentson, Secretary of Transportation, do promulgate and adopt at Room 1D9, Transportation Building, Olympia, Washington 98504, the annexed rules relating to the repeal of WAC 468-58-110, State Route 5. Seattle Freeway. With the revision to RCW 34.04.010, and the right turn prohibition from the SR 5 southbound off ramp to westbound on Dearborn Street no longer required, this rule should be deleted from WAC.

This action is taken pursuant to Notice No. WSR 84-03-032 filed with the code reviser on January 13, 1984.

These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Transportation as authorized in RCW 34.04.010.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED February 21, 1984.

By Duane Berentson Secretary

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 468-58-110 STATE ROUTE 5.

WSR 84-05-045 ADOPTED RULES DEPARTMENT OF TRANSPORTATION

[Order 89-Filed February 21, 1984]

I, Duane Berentson, Secretary of Transportation, do promulgate and adopt at Room 1D9, Transportation Building, Olympia, Washington 98504, the annexed rules relating to WAC 468-38-135, "transportation of radioactive or hazardous materials," which sets forth procedures for giving notice to transporters of placarded radioactive or hazardous cargo of times when transportation of such cargo is prohibited.

This action is taken pursuant to Notice No. WSR 84-03-033 filed with the code reviser on January 13, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Transportation as authorized in RCW 47.01.270, 47.48.010 and 47.48.050.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules. APPROVED AND ADOPTED February 21, 1984.

By Duane Berentson Secretary

NEW SECTION

WAC 468-38-135 TRANSPORTATION OF RADIOACTIVE OR HAZARDOUS MATERIALS. Under provision of chapter 47.48 RCW, the chief of the Washington state patrol or the secretary of transportation or their designees may close a section (or sections) of highways of the state to transporters of placarded radioactive or hazardous cargo because of weather or other

conditions that create a substantial risk to public safety. The department of transportation and Washington state patrol shall exchange notices of conditions requiring the closure of the highway and when conditions enable the closure to be terminated. The Washington state patrol or department of transportation shall manually control traffic until the closure is terminated or, if appropriate, until the time the department of transportation installs traffic control devices related to the closure. The Washington state patrol shall provide notice of both the imposition and lifting of the closure to placarded transporters through notices to news media, affected local law enforcement agencies, and other appropriate organizations, both public and private.

WSR 84-05-046 ADOPTED RULES DEPARTMENT OF FISHERIES

[Order 84-11—Filed February 21, 1984]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

This action is taken pursuant to Notice No. WSR 84-03-059 filed with the code reviser on January 18, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 21, 1984.

By Russell W. Cahill

By Russell W. Cahill for William R. Wilkerson Director

AMENDATORY SECTION (Amending Order 82–105, filed 8/13/82)

WAC 220-32-055 OFF-RESERVATION INDI-AN SUBSISTENCE FISHING. (1) It is unlawful for any person, including treaty Indian fishermen, to take, fish for, or possess salmon or other food fish for subsistence purposes except in accordance with the provisions of this section.

- (2) It is lawful for individuals possessing treaty fishing rights pursuant to the Yakima Treaty, the Warm Springs Treaty, the Umatilla Treaty, and the Nez Perce Treaty to fish for food fish for subsistence family—use purposes subject to the following provisions:
- (a) Such fishing is permitted year-round in the following areas: That area of the mainstem Columbia River from a point at Light #7 on Sheridon Point upstream to a point at the four-second flashing light #67 approximately 1/2 mile downstream of the Dalles Bridge; that

area of the mainstem Columbia River from a point 200 feet above the Dalles Dam fishway exit upstream to a point 600 feet downstream of the John Day Dam fishway entrance; that area of the mainstem Columbia River from a point 200 feet above the John Day Dam fishway exit upstream to a point at the downstream end of the wingwall of the McNary Dam boat lock; that area of Columbia River from a point 200 feet above the McNary Dam fishway exit upstream to the Highway 12 bridge; excluding those areas within 1/4 mile radius of the mouth of Wind River, Little White Salmon River (Drano Lake), Klickitat River, and Spring Creek Hatchery fishway entrance.

- (b) Lawful fishing gear by treaty Indians in the above—designated area includes dip nets and bag nets of a mesh size not exceeding 5 inches attached to a hoop 24 feet or less in circumference, spear, gaff, club, and foul book
- (c) It is lawful to use sport angling gear in places and at times allowed under chapter 220-56 WAC series for treaty Indian subsistence purposes.
- (d) It is unlawful to use drift gill nets or set gill nets for treaty Indian subsistence fishing in the mainstem of the Columbia River except as authorized by the director of the department of fisheries under the provisions of WAC 220-32-060.
- (e) It is unlawful to use gill nets, set nets, hoop nets, dip or bag nets with a mesh size exceeding 5 inches, set lines, or any other type of fishing gear not otherwise specifically authorized except during times and in areas where such gear is authorized for commercial fishing purposes.
- (3) In accordance with RCW ((75.12.300 and 75.12-310)) 75.08.265, it is lawful for the following Wanapum Indians to take, fish for, and possess food fish for subsistence purposes in the vicinity of Priest Rapids Dam in specified areas at specified times using specified gear authorized by the director of the department of fisheries. The individuals designated below may be revised from time to time by agreement between the Wanapum Indians and the director of the department of fisheries:

Frank Buck Jade Buck

Stanley Buck Robert S. Tomanawash, Sr.

Willie Buck
Harry Buck
Ken Buck
Rex Buck, Jr.
Phillip Buck
Richard Buck
Lester Umtuch
Grant Wyena
Jerry Wyena
Douglas Wyena
Jimmy Wyena
Patrick Wyena

The following provisions apply to this fishery:

- (a) It is unlawful to fish at any time, place, or using gear other than that designated by the director of the department of fisheries and authorized by regulation.
- (b) It is unlawful for Wanapum Indian fishermen to fail to report, in writing, their total catch to the department of fisheries within five days of the end of fishing activity under subsection (3)(a) of this section.
- (c) Should any Wanapum Indian be convicted of violating the provisions of this section, or sell, barter, or attempt or sell or barter any fish taken in this fishery or

any treaty Indian fishery, that fishermen will be ineligible to further participate in the Wanapum Indian subsistence fishery unless otherwise determined by the director of the department of fisheries.

(4) It is unlawful to sell, barter, or offer for sale or barter, buy, or for a commercially licensed buyer or wholesale fish dealer to have in possession food fish taken in an Indian subsistence fishery under the provisions of subsections (2) and (3) of this section.

(((4))) (5) It is unlawful for fishermen participating in an Indian subsistence fishery to fail to submit their catch to department of fisheries employees for the conduct of biological sampling or to fail to allow necessary biological samples to be taken.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-55-120 FREE LICENSE ISSUING PROCEDURE. A free salmon angling license shall be issued by the license supervisor of the Department of Fisheries, Olympia, Washington, to any qualified applicant((, upon receipt of the applicant's affidavit)) as provided for in RCW ((75.28.630)) 75.25.110. A lost or illegible free license will be replaced by the license supervisor upon request and showing of proof.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-55-130 VALID LICENSE RE-QUIRED. It shall be unlawful for any person required to have a license by RCW ((75.28.600)) 75.25.100, to take fish for or possess salmon without having in his possession a valid salmon angling license. A license shall be invalid:

- (1) Unless the angler has signed his name in ink across the face of the stamp;
- (2) Unless the validation date is legibly written in ink on the face of the stamp;
- (3) If the signature or the date on the stamp is illegible or altered, or if the stamp has been mutilated.

Note: A lost or mutilated license or stamp will not be replaced by the department.

AMENDATORY SECTION (Amending Order 79-75, filed 9/7/79)

WAC 220-74-022 CERTAIN SALES DISAL-LOWED. (1) Sales of surplus eggs as described in WAC 220-74-020 shall not be allowed where the person or corporation seeking to buy said eggs has not paid all fees and taxes due and owing to the state of Washington((, department of fisheries, including but not limited to, license fees and privilege and tax fees due and owing as provided in chapter 75.32 RCW)).

(2) Notwithstanding the provisions of chapter 220-74 WAC, the department reserves the right to refuse to sell surplus salmon eggs to any purchaser for good cause.

AMENDATORY SECTION (Amending Order 980, filed 2/3/72)

WAC 220-76-010 AQUACULTURE—PER-MITS. (1) It shall be unlawful for any person, firm, or corporation to engage in cultivation of food fish, shell-fish, or other aquatic animals for commercial purposes without first having obtained from the director of fisheries an aquaculture permit, and it shall be unlawful for any person, firm, or corporation to fail to comply with the provisions of said aquaculture permit.

- (2) Aquaculture permits are nontransferable. In the event there is a change of ownership of a fish farm established under chapter 220–76 WAC and RCW ((75-16.100)) 75.28.265, the aquaculture permit issued to the previous owner shall be invalid.
- (3) Applications for aquaculture permits shall be submitted on forms supplied by the department setting forth the following:
 - (a) Name and address of owner and operator.
- (b) Location of project, including legal description and location map.
- (c) Proposed layout of facilities, equipment, operation plans and procedures including disease control, and such other pertinent data as may be required.

AMENDATORY SECTION (Amending Order 80-194, filed 12/11/80)

WAC 220-85-015 LICENSE MORATORIUM REVIEW BOARDS. The director shall appoint advisory boards of review as necessary to hear appeals pursuant to the commercial salmon license moratorium (((RCW 75.28.455 through 75.28.480))), the salmon charter boat license moratorium (((RCW 75.30.010 through 75.30.060))), commercial herring license moratorium and the Puget Sound commercial crab license moratorium (((RCW 75.28.274 through 75.28.277))) (chapter 75.30 RCW).

AMENDATORY SECTION (Amending Order 80-194, filed 12/11/80)

WAC 220-85-050 MORATORIUM ADVISORY REVIEW BOARDS—WHO MAY APPEAL. Any person aggrieved by a decision of the department pursuant to chapter 75.30 RCW ((75.28.274, 75.28.275, 75.28.455 through 75.28.475 or 75.30.020)), may voluntarily request that a board of review be impaneled to hear his case.

AMENDATORY SECTION (Amending Order 80-194, filed 12/11/80)

WAC 220-85-070 MORATORIUM ADVISORY REVIEW BOARDS—APPEALS—REQUIRE-MENTS—FORM FOR APPEAL. (1) Appeals by an aggrieved person pursuant to chapter 75.30 RCW ((75-28.274, 75.28.275, 75.28.475, 75.28.480 or 75.30.020)), from determinations of the department shall be in writing and should include:

- (a) a concise statement of why the appeal is made,
- (b) the basis upon which the aggrieved person believes a different decision should be made,

- (c) a statement of any other relevant facts.
- (2) Appeals must be postmarked within thirty days of the date of denial, or received in person at the department of fisheries not more than thirty days from the date of denial. The director may waive the thirty day requirement for good cause.
- (3) The appeal may be in any written form; however, the department will furnish or make available upon request a form that can be used for making appeals pursuant to the provisions of these regulations.

AMENDATORY SECTION (Amending Order 80–194, filed 12/11/80)

WAC 220-85-110 MORATORIUM ADVISORY REVIEW BOARDS—APPEALS—INFORMATION PROCEDURES OPTIONAL. Pursuant to the provisions of chapter 75.30 RCW ((75.28.277, 75.28.480 or 75.30.060)), an aggrieved person may proceed under chapter 34.04 RCW (Administrative Procedure Act) and the procedural rules for appeal and hearing thereunder applicable to all state agencies as provided for in WAC 1-08-010 through 1-08-590 will govern proceedings initiated thereunder.

AMENDATORY SECTION (Amending Order 82–141, filed 9/21/82)

WAC 220-95-021 PROGRAM OPTIONS. (1) The department may purchase either an applicant's license(s) or an applicant's license(s) and a restriction on the vessel prohibiting the vessel's use as a commercial or charter salmon fishing vessel or salmon delivery vessel.

- (2) The department may purchase license(s) or vessel restriction if the applicant's vessel is currently licensed to fish for or deliver salmon within the state and the applicant is qualified pursuant to RCW ((75.28.510)) 75.44.110.
- (3) Each vessel use restriction shall be purchased for thirty percent of the fair market value of the vessel. Purchase offers will be made in order of priority ranking established for each category of applicants pursuant to WAC 220-95-016.
- (4) The department shall not purchase vessel use restrictions from marginal applicants as defined in WAC 220-95-016.
- (5) License and vessel values shall be established as provided in WAC 220-95-026. After the value of the vessel has been established and the applicant has provided paid receipts for the first two surveys, the department may communicate a purchase offer to the applicant. If the applicant accepts the offer, the applicant shall sign and return the offer within ten calendar days of the date of the offer.
- (6) The department may not purchase more than one vessel restriction or license from an applicant until all applicants have had an opportunity to sell.
- (7) A person who previously sold either a vessel or license to the program may sell only other licenses and restrictions on other vessels owned at the time the person first sold to the program.

AMENDATORY SECTION (Amending Order 82-141, filed 9/21/82)

WAC 220-95-026 SURVEYS—VESSELS—LICENSE—PERMIT VALUES. (1) The department shall conduct a yearly market survey in consultation with the advisory board established pursuant to RCW ((75.28.530)) 75.44.140 in order to determine the fair market value of licenses in each license category.

- (2) The department shall establish fair market value for vessels using the following method:
- (a) Each vessel shall be surveyed by two marine surveyors chosen by the applicant from a list provided by the department.
- (b) A third survey shall be done if the value of the lower survey is less than fifty thousand dollars and the difference between the surveys is more than twenty percent of the lower survey, or the value of the lower survey is more than fifty thousand dollars and the difference between the surveys is more than ten percent of the lower survey value. The department shall randomly select the third surveyor from the same list supplied to the applicant. The department shall not conduct a third survey until the applicant provides the department with paid receipts for the first two surveys.
- (c) The applicant and program manager or their representatives shall be in attendance during each survey.
- (d) Each surveyor shall send copies of the survey to the applicant and to the department.
- (e) The cost of the first two surveys shall be borne by the applicant. The department shall reimburse this cost if the applicant accepts the purchase offer. The cost of the third survey shall be borne by the department.
- (f) The fair market value of the vessel shall be computed by the department averaging the two closest survey values.
- (g) The department shall maintain confidentiality of the surveys prior to completion of the purchase by the department.

WSR 84-05-047 NOTICE OF PUBLIC MEETINGS FORT STEILACOOM COMMUNITY COLLEGE

[Memorandum—February 15, 1984]

On February 7, 1984, the board of trustees of Fort Steilacoom Community College unanimously approved the rescheduling of the regular meeting of April 3, 1984, to April 10, 1984.

WSR 84-05-048 NOTICE OF PUBLIC MEETINGS SEATTLE COMMUNITY COLLEGE DISTRICT

[Memorandum—February 16, 1984]

The Seattle Community College District VI board of trustees will hold a special meeting which has been

scheduled for Tuesday, February 21, 1984, at 7:30 a.m., at the Seattle Community College District Office, 300 Elliott Avenue West, Seattle, WA 98119.

WSR 84-05-049 NOTICE OF PUBLIC MEETINGS PENINSULA COLLEGE

[Memorandum—February 16, 1984]

At its regular meeting on February 15, 1984, the board of trustees of Community College District No. 1, Peninsula College, voted to change its meeting date for March 1984 from the 21st to the 14th.

WSR 84-05-050 PROPOSED RULES LOTTERY COMMISSION

[Filed February 21, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Lottery Commission intends to adopt, amend, or repeal rules concerning the amending of WAC 315-04-120 and 315-06-120:

that the agency will at 10:00 a.m., Friday, April 6, 1984, in the Commission Conference Room, Olympia Regional Office, 108 Park Village Plaza, 1200 Cooper Point Road S.W., Olympia, WA 98502, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1984.

Dated: February 21, 1984
By: Kevin Ryan
Assistant Attorney General
for Lawrence G. Waldt
Chairman

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 315-04-120 Transfer of ownership license prohibited; and 315-06-120 Payment of prizes—General provisions.

Statutory Authority: RCW 67.70.040.

Specific Statutes that Rule is Intended to Implement: RCW 67.70.040.

Summary of the Rule(s): WAC 315-04-120, the rule prohibits transfer of ownership of a license; and WAC 315-06-120, the rule establishes criteria and procedures for payment of prizes.

Reasons Supporting the Proposed Rule(s): WAC 315-04-120, the purpose of this amendment is to correct an editorial error in the rule; and WAC 315-06-120, the

purpose of this amendment is to correct an editorial error in the rule.

The Agency Personnel Responsible for Drafting: Colleen Nelson, Contracts Assistant, Office of the Director, Washington State Lottery, P.O. Box 9702, Olympia, WA 98504, (206) 754-1093; Implementation and Enforcement: Washington State Lottery Commission, P.O. Box 9770, Olympia, WA 98504, (206) 753-1412, Robert Boyd, Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3330, N. A. Stussy, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3329, William Robinson, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-1414, and Jamie Bailey, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3384.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement Requirement: The office of the director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses, large and small, which voluntarily apply to be licensed agents for the sale of lottery tickets or contractors who provide other services to the office of the director, Washington State Lottery or who voluntarily interact with the office of the director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to or interact with the office of the director, Washington State Lottery.

AMENDATORY SECTION (Amending Order 41, filed 12/8/83)

WAC 315-04-120 TRANSFER OF OWNERSHIP OF LICENSE PROHIBITED. (1) Any license issued by the director is personal to the licensed agent and may not be transferred to another person except as provided in WAC 315-04-130.

(2) If the person to which a license is issued substantially changes its ownership, the license shall immediately terminate and be void and tickets shall not be sold. Every such change in ownership shall be reported to the lottery prior to the change. The license ((\{\frac{1}{4}\text{nd}\text{-identification card}\})\) and identification card shall be surrendered to the lottery immediately. A substantial change in ownership of a business shall mean the transfer of ten percent or more equity in that business. In the event the new ownership wishes to become a licensed agent, the new ownership shall submit an application and fees for initial licensure and the lottery shall process these in accordance with these rules.

AMENDATORY SECTION (Amending Order 41, filed 12/8/83)

WAC 315-06-120 PAYMENT OF PRIZES—GENERAL PROVISIONS. (1) The director may designate claim centers for the filing of prize claims, and the location of such centers shall be publicized from time to time by the director.

- (2) A claim shall be entered in the name of a single legal entity as claimant, either one individual or one organization. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) as issued by the internal revenue service and such number is shown on the claim form. Groups, family units, organizations, clubs, or other organizations which are not a legal entity, or do not possess a federal employer's identification number, shall designate one individual in whose name the claim is to be entered.
- (3) Unless otherwise provided in the rules for a specific type of game, a claimant shall sign the back of the ticket and/or complete and sign a claim form approved by the director. The claimant shall submit the claim form and/or claimant's ticket to the lottery in accordance with the director's instructions as stated in the players' manual and/or on the back of the ticket. The claimant, by submitting the claim, agrees to the following provisions:
- (a) The discharge of the state, its officials, officers, and employees of all further liability upon payment of the prize; and
- (b) The authorization to use the claimant's name for publicity purposes upon award of the prize.
- (4) A prize must be claimed within the time limits prescribed by the director in the instructions for the conduct of a specific game, but in no case shall a prize be claimed later than 180 days after the official end of that instant game or the on-line game drawing for which that on-line ticket was purchased.
 - (5) The director may deny awarding a prize to a claimant if:
 - (a) The ticket was not legally issued initially;
- (b) The ticket was stolen from the commission, director, its employees or agents, or from a licensed agent; or
- (c) The ticket has been altered or forged, or has otherwise been mutilated such that the authenticity of the ticket cannot be reasonably assured by the director.
- (6) No person entitled to a prize may assign his or her right to claim it except((f:\{;\})):
- (a) That payment of a prize may be made to any court appointed legal representative, including, but not limited to, guardians, executors, administrators, receivers, or other court appointed assignees; or
- (b) For the ((purpose[s])) purposes of paying federal, state or local tax.
- (7) In the event that there is a dispute or it appears that a dispute may occur relative to any prize, the director may refrain from making payment of the prize pending a final determination by the director or by a court of competent jurisdiction relative to the same.
- (8) A ticket that has been legally issued by a licensed agent is a bearer instrument until signed. The person who signs the ticket is considered the bearer of the ticket. Payment of any prize may be made to the bearer, and all liability of the state, its officials, officers, and employees and of the commission, director and employees of the commission terminates upon payment.
- (9) All prizes shall be paid within a reasonable time after the claims are verified by the director and a winner is determined. The date of the first installment payment of each prize requiring installment payments shall be the commencement date of the payments and a payment shall be made on the anniversary date of said payment thereafter in accordance with the type of prize awarded.
- (10) The director may, at any time, delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim or any other matter that may have come to his or her attention. All delayed payments shall be brought up to date immediately upon the director's confirmation and continue to be paid on each original anniversary date thereafter.
- (11) If any prize is payable for the life of the claimant, only a natural person may claim such a prize and, if claiming on behalf of a group, corporation or the like, the life of such natural person claiming the prize shall be the measuring life.
- (12) The director's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from the payment or awarding of prizes shall be final and binding upon all participants in the lottery.
- (13) Each licensed agent shall pay all prizes authorized to be paid by the licensed agent by these rules during its normal business hours at the location designated on its license.

(14) In the event a dispute between the director and the claimant occurs as to whether the ticket is a winning ticket, and if the ticket prize is not paid, the director may, solely at his or her option, replace the disputed ticket with an unplayed ticket (or tickets of equivalent sales price from any game). This shall be the sole and exclusive remedy of the claimant.

WSR 84-05-051 PROPOSED RULES LOTTERY COMMISSION

[Filed February 21, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Lottery Commission intends to adopt, amend, or repeal rules concerning the amending of WAC 315-11-101;

that the agency will at 10:00 a.m., Friday, April 6, 1984, in the Commission Conference Room, Olympia Regional Office, 108 Park Village Plaza, 1200 Cooper Point Road S.W., Olympia, WA 98502, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1984.

Dated: February 21, 1984

By: Kevin Ryan

Assistant Attorney General

for Lawrence G. Waldt

Chairman

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 315-11-101 Criteria for Instant Game Number 8.

Statutory Authority: RCW 67.70.040.

Specific Statutes that Rule is Intended to Implement: RCW 67.70.040.

Summary of the Rule(s): WAC 315-11-101, this rule sets forth criteria for Instant Game Number 8, including the price of a ticket, determination of winning tickets, ticket validation requirements, ticket redemption, grand prize awards, and the director's authority to vary the game's length and/or the number of tickets sold.

Reasons Supporting the Proposed Rule(s): WAC 315–11–101, this amendment deletes the envelope size limitations for entry into the grand prize drawing process for Instant Game Number 8. It is necessary to make the rule consistent with other information readily available to players, which does not include the envelope size limitations. Without this amendment, the lottery would have to reject envelopes not conforming to the size requirements.

The Agency Personnel Responsible for Drafting: C. J. Coffman, Contract Specialist, Office of the Director, Washington State Lottery, P.O. Box 9702, Olympia,

WA 98504, (206) 753-1088; Implementation and Enforcement: Washington State Lottery Commission, P.O. Box 9770, Olympia, WA 98504, (206) 753-1412, Robert Boyd, Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3330, N. A. Stussy, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3329, William Robinson, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-1414, and Jamie Bailey, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3384.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement Requirement: The office of the director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses, large and small, which voluntarily apply to be licensed agents for the sale of lottery tickets or contractors who provide other services to the office of the director, Washington State Lottery or who voluntarily interact with the office of the director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to or interact with the office of the director, Washington State Lottery.

AMENDATORY SECTION (Amending Order 43, filed 12/8/83)

WAC 315-11-101 CRITERIA FOR INSTANT GAME NUMBER 8. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets – An instant prize winning ticket is determined in Instant Game Number 8 in the following manner: Add the five play numbers on the ticket. If the total exceeds 100 (\$1.00), the ticket is a winner of the prize determined by the "prize symbol" in the prize box. The "prize symbols" have the following instant prize values:

Prize Symbol	Prize Value
ENTRY	Entry in the preliminary drawing for the grand prize drawing
TICKET	One free ticket
\$2.00	\$2.00 (two dollars)
\$5.00	\$5.00 (five dollars)
50.00	\$50.00 (fifty dollars)
\$100.00	\$100.00 (one hundred dollars)
\$1,000	\$1,000 (one thousand dollars)
25,000	\$25,000 (twenty-five thousand dollars)

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as part of the instant game.

- (4) The determination of prize winners shall be subject to the general ticket validation requirements, to the particular ticket validation requirements for Instant Game Number 8, and to the requirements set out on the back of each ticket.
- (5) Instant prize winning tickets shall be redeemed in the manner set out on the back of the ticket and in the player's brochure.
- (6) Grand prize drawing for Instant Game Number 8 Participants in the preliminary drawing for the grand prize drawing shall be determined as follows:

(a) The legible name and address of one and only one eligible player must be present on the back of each ticket which is a winning "entry" ticket or on a separate piece of paper.

(b) The ticket constituting the entry into the preliminary drawing for the grand prize drawing must have been mailed ((in an envelope no larger than 4-1/2" x 10-3/8")) to the correct address as advertised by the lottery and received within 14 days of the announced end of Instant Game Number 8 in the manner prescribed on the back of the instant ticket. The lottery is not responsible for any entries that are not received by the lottery prior to the deadline.

(c) Each ticket must be a valid Instant Game Number 8 "Loose

Change" ticket.

One grand prize drawing will be held for Instant Game Number 8 after that game's conclusion at a time and place and pursuant to methods to be announced by the director. The prizes awarded in the grand prize drawing will be: First prize, \$1,000 a week for life, with the weekly prize payment starting at age 18 or older, with a minimum payment of \$1,000,000 being guaranteed; second prize, \$500,000 paid as \$50,000 per year for 10 years, third prize, \$200,000 paid as \$20,000 a year for 10 years, fourth prize, \$75,000 cash; fifth and sixth prizes, \$50,000 cash each; seventh and eight prizes: \$25,000 cash each; and, ninth and tenth prizes, \$10,000 cash each. The director reserves the right, as provided by WAC 315-10-030 (7)(a), to place any ticket bearer who is entitled to entry in the grand prize drawing whose entry was not entered into the preliminary drawing for such grand prize drawing and who is subsequently determined to have been entitled to such entry, into a preliminary drawing of a subsequent instant game grand prize drawing having equal (or greater) grand prizes available.

(7) Notwithstanding any other provisions of these rules, the director may: (a) Vary the length of Instant Game Number 8, and/or (b) vary the number of tickets sold in Instant Game Number 8 and the number of grand prize drawing winners in a manner that will maintain the es-

timated average odds of winning a grand prize drawing.

WSR 84-05-052 PROPOSED RULES LOTTERY COMMISSION

[Filed February 21, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Lottery Commission intends to adopt, amend, or repeal rules concerning adding new sections WAC 315-11-110, 315-11-111 and 315-11-112;

that the agency will at 10:00 a.m., Friday, April 6, 1984, in the Commission Conference Room, Olympia Regional Office, 108 Park Village Plaza, 1200 Cooper Point Road S.W., Olympia, WA 98502, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1984.

Dated: February 21, 1984 By: Kevin Ryan Assistant Attorney General for Lawrence G. Waldt Chairman

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 315-11-110 Definitions for Instant Game Number 9 ("Cash Word"); 315-11-111 Criteria for Instant Game Number 9; and 315-11-112 Ticket validation requirements for Instant Game Number 9.

Statutory Authority: RCW 67.70.040.

Specific Statutes that Rule is Intended to Implement: RCW 67.70.040.

Summary of the Rule(s): WAC 315-11-110, this rule provides definitions of the terms used in Instant Game Number 9 rules; WAC 315-11-111, this rule sets forth criteria for Instant Game Number 9, including the price of a ticket, determination of winning tickets, ticket validation requirements, ticket redemption, grand prize awards, and the director's authority to vary the game's length and/or the number of tickets sold; and WAC 315-11-112, this rule states the specific ticket validation requirements for Instant Game Number 9, what may occur if a ticket fails any validation requirement, and the lottery's responsibility if a defective ticket is sold.

Reasons Supporting the Proposed Rule(s): WAC 315-11-110, certain terms need to be defined in order to provide an understanding of the provisions contained in WAC 315-11-111 and 315-11-112; WAC 315-11-111, licensed agents and players of Instant Game Number 9 need to know how the game will function. Specifying the criteria which apply to Instant Game Number 9 will provide this information; and WAC 315-11-112, tickets for Instant Game Number 9 which are found to be counterfeit or tampered with will be declared void by the lottery and no prize(s) will be paid. Rigid validation requirements are set forth to discourage persons from tampering with tickets and to provide the lottery a mechanism to deny payment of prize if an invalid ticket is submitted.

The Agency Personnel Responsible for Drafting: C. J. Coffman, Contract Specialist, Office of the Director, Washington State Lottery, P.O. Box 9702, Olympia, WA 98504, (206) 753-1088; Implementation and Enforcement: Washington State Lottery Commission, P.O. Box 9770, Olympia, WA 98504, (206) 753-1412, Robert Boyd, Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3330, N. A. Stussy, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3329, William Robinson, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-1414, and Jamie Bailey, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3384.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement Requirement: The office of the director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses, large and small, which voluntarily apply to be licensed agents for the sale of lottery tickets or contractors who provide other services to the office of the director, Washington State Lottery or who voluntarily interact with the office of the director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to or interact with the office of the director, Washington State Lottery.

NEW SECTION

WAC 315-11-110 DEFINITIONS FOR INSTANT GAME NUMBER 9 ("CASH WORD"). (1) Play numbers for Instant Game Number 9. The following are the "play numbers": "W," "I," and "N." Each such play number is printed in gray-black ink in the Archer font in positive and one of these play numbers appears under each of the nine rub-off spots on the front right portion of the ticket.

(2) Validation number for Instant Game Number 9. The nine-digit number on the front bottom center of the ticket.

- (3) Pack-ticket number for Instant Game Number 9. The ten-digit number of the form 9000001-000 printed on the back of the ticket in .11" high type in red. The first seven digits of the "pack-ticket number" for Instant Game Number 9 constitute the "pack number" which starts at 9000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.
- (4) Caption for Instant Game Number 9. The small printed material appearing below each play number which verifies and corresponds with that play number. The caption is a repetition of the play number and also indicates the row in which the play number is located. Only one caption appears under each play number and is printed in gray-black ink in positive in 5×9 font. For Instant Game Number 9, the caption which corresponds with and verifies each play number is as follows for row 1:

PLAY NUMBER		
w	=	W-ROW1
I	=	I-ROW1
N	=	N-ROW1

Similar captions will apply for rows 2 and 3 (e.g., W-ROW2 and W-ROW3).

(5) Agent validation codes for Instant Game Number 9. Agent validation codes are codes consisting of small numbers found under the removable covering on the front of the ticket which the licensed agent uses to verify and validate instant winners below \$25. For Instant Game Number 9, the agent validation code is a three-number code, with each number appearing in a varying three of nine locations be neath the removable covering and among the play numbers on the ticket and is used by the licensed agent to verify possible free ticket, \$2 and \$5 winners. The agent validation code which verifies each of these winners, is as follows:

100 = 1 free ticket 200 = \$2 500 = \$5 (6) Pack for Instant Game Number 9. A pack of 400 fanfolded instant game tickets attached to each other by perforations and packaged in a plastic bag or plastic shrinkwrapping. The licensed agent separates the tickets at the perforations at the time of retail sale.

NEW SECTION

WAC 315-11-111 CRITERIA FOR INSTANT GAME NUMBER 9. (1) The price of each instant game ticket shall be \$1.00.

- (2) Determination of prize winning tickets. An instant prize winning ticket is determined in Instant Game Number 9 in the following manner:
- (a) A prize winning ticket shall have an occurrence of 3 play numbers which spell "WIN" in exact order in any row (left to right) or any column (top to bottom). A "row" is comprised of three horizontally contiguous play numbers and a "column" is comprised of three vertically contiguous play numbers. The amount of the prize shall be determined as follows:

WIN in the right hand column
WIN in the center column
WIN in the left hand column
WIN in the top row
WIN in the center row
WIN in the bottom row

1 free ticket
\$2.00
\$5.00
\$5.00
\$1,000.00
\$50,000.00

- (b) In any event, only the highest instant prize amount will be paid on a given ticket.
- (3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.
- (4) The determination of prize winners shall be subject to the general ticket validation requirements, to the particular ticket validation requirements for Instant Game Number 9, and to the requirements stated on the back of the ticket.
 - (6) Grand prize drawing for Instant Game Number 9:
- (a) Entries in the preliminary grand prize drawing process shall consist of five nonwinning "Cash Word" tickets. The legible name and address of an eligible player must be present on the back of at least one of the five tickets, on a separate sheet of paper, or on the envelope. An entry containing more than one name and/or address shall be disqualified.
- (b) Each entry shall be mailed in a separate envelope to the address specified in the player's brochure and on the back of the ticket.
- (c) Each entry into the preliminary grand prize drawing process must have been mailed to the current address as advertised by the lottery and received by the lottery within fourteen days after the announced end of the game. The lottery is not responsible for any entry until actually received.
- (d) Each of the five nonwinning tickets must be a valid Instant Game Number 9 "Cash Word" ticket.
- (e) There will be one grand prize drawing for Instant Game Number 9. The preliminary grand prize drawing process and the grand prize drawing will be conducted at times and places and pursuant to methods to be announced by the director. The prizes to be awarded at the grand prize drawing will be: First prize, \$1,000 a week for life, with the prize payment starting at age 18 or older, with a minimum of \$1,000,000 being guaranteed; second prize, \$100,000; third and fourth prizes, \$75,000; fifth and sixth prizes, \$50,000; seventh and eighth prizes, \$25,000; and ninth and tenth prizes, \$10,000. In the event that an entry is not included in the preliminary grand prize drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent preliminary grand prize drawing process.
- (7) Notwithstanding any other provision of these rules, the director may: (a) Vary the length of Instant Game Number 9, and/or (b) vary the number of tickets sold in Instant Game Number 9, and the number of grand prize drawing winners in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-112 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 9. (1) In addition to meeting all of the other requirements in these rules and regulations, the following validation requirements will apply with regard to instant game tickets in Instant Game Number 9. To be a valid instant game ticket, all of the following requirements must be met:

(a) Exactly one play number must appear under each of the nine rub-off spots in the right portion of the front of the ticket.

- (b) Each of the nine play numbers must have a caption underneath, and each must agree with its caption.
- (c) Each of the nine play numbers must be present in its entirety and be fully legible.
- (d) Each of the nine captions must be present in its entirety and be fully legible.
- (e) Each of the nine play numbers and their captions must be printed in gray-black ink.
- (f) The pack-ticket number, validation number, and agent validation code must be present in their entirety and be legible. The validation number shall correspond, using the lottery's codes, to the play numbers on the ticket.
- (g) The ticket must not be altered, unreadable, reconstituted, or tampered with in any manner.
 - (h) The ticket must not be counterfeit in whole or in part.
- (i) The validation number and agent validation code shall be printed in gray-black ink and the pack-ticket number shall be printed in red ink.
- (j) The ticket must have been issued by the director and sold in an authorized manner.
- (k) The ticket must not be stolen nor appear on any list of omitted tickets on file with the director.
- (1) The play numbers and their captions, the validation number, the agent validation code, and the pack-ticket number must be right-side-up and not reversed in any manner.
- (m) The ticket must be complete, not miscut, and have exactly one play number and exactly one caption under each of the nine rub—off spots on the right portion of the front of the ticket, exactly one pack—ticket number, exactly one agent validation code, and exactly one validation number.
- (n) The validation number of an apparent winning ticket shall appear on the lottery's official list of validation numbers of winning tickets, and a ticket with that validation number shall not have been previously paid.
- (o) The ticket must not be blank, partially blank, misregistered, defective, or printed or produced in error.
- (p) Each of the play numbers must be exactly one of those described in WAC 315-11-110(1) and each of the captions to the play numbers must be exactly one of those described in WAC 315-11-110(4).
- (q) Each of the nine play numbers on the ticket must be printed in the Mead Archer size font and must correspond precisely to the artwork on file with the director; each of the nine captions must be printed in the Mead 5×9 font and must correspond precisely to the artwork on file with the director; the pack-ticket number must be .11 high in red and correspond precisely to the artwork on file with the director; and the validation number must be printed in the Mead 9×12 font and must correspond precisely to the artwork on file with the director.
- (r) The display printing must be regular in every respect and correspond precisely with the artwork on file with the director.
- (s) The ticket must pass all additional confidential validation requirements of the director.
- (2) Any ticket not passing all the validation requirements in WAC 315-11-112(1) is invalid and ineligible for any prize.
- (3) The director may replace an invalid ticket with an unplayed ticket(s) of equivalent sales price from any other current lottery instant game. In the event a defective ticket is purchased, the only responsibility or liability of the lottery shall be the replacement of the defective ticket with an unplayed ticket(s) of equivalent sales price from any other current lottery game. However, if the ticket is partially mutilated or if the ticket is not intact but can still be validated by the other validation tests, the director may pay the prize for that ticket.

WSR 84-05-053 EMERGENCY RULES LOTTERY COMMISSION

[Order 52—Filed February 21, 1984]

Be it resolved by the State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to adding new sections WAC 315-11-110, 315-11-111 and 315-11-112.

We, the State Lottery Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the rules of play of Game 9 need to be in place before the start of the game which is scheduled before permanent rules can be adopted. Delay in implementation of these rules would be contrary to the public interest.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 67.70.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 3, 1984.

By Kevin Ryan Assistant Attorney General for Lawrence G. Waldt Chairman

NEW SECTION

WAC 315-11-110 DEFINITIONS FOR IN-STANT GAME NUMBER 9 ("CASH WORD"). (1) Play numbers for Instant Game Number 9. The following are the "play numbers": "W," "I," and "N." Each such play number is printed in gray-black ink in the Archer font in positive and one of these play numbers appears under each of the nine rub-off spots on the front right portion of the ticket.

- (2) Validation number for Instant Game Number 9. The nine-digit number on the front bottom center of the ticket.
- (3) Pack-ticket number for Instant Game Number 9. The ten-digit number of the form 9000001-000 printed on the back of the ticket in .11" high type in red. The first seven digits of the "pack-ticket number" for Instant Game Number 9 constitute the "pack number" which starts at 9000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.
- (4) Caption for Instant Game Number 9. The small printed material appearing below each play number which verifies and corresponds with that play number. The caption is a repetition of the play number and also indicates the row in which the play number is located. Only one caption appears under each play number and is printed in gray-black ink in positive in 5 x 9 font. For Instant Game Number 9, the caption which corresponds with and verifies each play number is as follows for row 1:

$$\frac{PLAY \ NUMBER}{W} = W-ROW1$$

I = I-ROW1N = N-ROW1

Similar captions will apply for rows 2 and 3 (e.g., W-ROW2 and W-ROW3).

(5) Agent validation codes for Instant Game Number 9. Agent validation codes are codes consisting of small numbers found under the removable covering on the front of the ticket which the licensed agent uses to verify and validate instant winners below \$25. For Instant Game Number 9, the agent validation code is a three-number code, with each number appearing in a varying three of nine locations beneath the removable covering and among the play numbers on the ticket and is used by the licensed agent to verify possible free ticket, \$2 and \$5 winners. The agent validation code which verifies each of these winners, is as follows:

100 = 1 free ticket 200 = \$2 500 = \$5

(6) Pack for Instant Game Number 9. A pack of 400 fanfolded instant game tickets attached to each other by perforations and packaged in a plastic bag or plastic

shrinkwrapping. The licensed agent separates the tickets at the perforations at the time of retail sale.

NEW SECTION

WAC 315-11-111 CRITERIA FOR INSTANT GAME NUMBER 9. (1) The price of each instant game ticket shall be \$1.00.

- (2) Determination of prize winning tickets. An instant prize winning ticket is determined in Instant Game Number 9 in the following manner:
- (a) A prize winning ticket shall have an occurrence of 3 play numbers which spell "WIN" in exact order in any row (left to right) or any column (top to bottom). A "row" is comprised of three horizontally contiguous play numbers and a "column" is comprised of three vertically contiguous play numbers. The amount of the prize shall be determined as follows:

win in the right hand column \$2.00 win in the left hand column \$5.00 win in the top row \$25.00 win in the center row \$1,000.00 win in the bottom row \$50,000.00

(b) In any event, only the highest instant prize amount will be paid on a given ticket.

- (3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.
- (4) The determination of prize winners shall be subject to the general ticket validation requirements, to the particular ticket validation requirements for Instant Game Number 9, and to the requirements stated on the back of the ticket.
 - (6) Grand prize drawing for Instant Game Number 9:
- (a) Entries in the preliminary grand prize drawing process shall consist of five nonwinning "Cash Word" tickets. The legible name and address of an eligible

player must be present on the back of at least one of the five tickets, on a separate sheet of paper, or on the envelope. An entry containing more than one name and/or address shall be disqualified.

- (b) Each entry shall be mailed in a separate envelope to the address specified in the player's brochure and on the back of the ticket.
- (c) Each entry into the preliminary grand prize drawing process must have been mailed to the current address as advertised by the lottery and received by the lottery within fourteen days after the announced end of the game. The lottery is not responsible for any entry until actually received.
- (d) Each of the five nonwinning tickets must be a valid Instant Game Number 9 "Cash Word" ticket.
- (e) There will be one grand prize drawing for Instant Game Number 9. The preliminary grand prize drawing process and the grand prize drawing will be conducted at times and places and pursuant to methods to be announced by the director. The prizes to be awarded at the grand prize drawing will be: First prize, \$1,000 a week for life, with the prize payment starting at age 18 or older, with a minimum of \$1,000,000 being guaranteed; second prize, \$100,000; third and fourth prizes, \$75,000; fifth and sixth prizes, \$50,000, seventh and eighth prizes, \$25,000; and ninth and tenth prizes, \$10,000. In the event that an entry is not included in the preliminary grand prize drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent preliminary grand prize drawing process.
- (7) Notwithstanding any other provision of these rules, the director may: (a) Vary the length of Instant Game Number 9, and/or (b) vary the number of tickets sold in Instant Game Number 9, and the number of grand prize drawing winners in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-112 TICKET VALIDATION RE-QUIREMENTS FOR INSTANT GAME NUMBER 9. (1) In addition to meeting all of the other requirements in these rules and regulations, the following validation requirements will apply with regard to instant game tickets in Instant Game Number 9. To be a valid instant game ticket, all of the following requirements must be met:

- (a) Exactly one play number must appear under each of the nine rub-off spots in the right portion of the front of the ticket.
- (b) Each of the nine play numbers must have a caption underneath, and each must agree with its caption.
- (c) Each of the nine play numbers must be present in its entirety and be fully legible.
- (d) Each of the nine captions must be present in its entirety and be fully legible.
- (e) Each of the nine play numbers and their captions must be printed in gray-black ink.
- (f) The pack-ticket number, validation number, and agent validation code must be present in their entirety

and be legible. The validation number shall correspond, using the lottery's codes, to the play numbers on the ticket.

- (g) The ticket must not be altered, unreadable, reconstituted, or tampered with in any manner.
- (h) The ticket must not be counterfeit in whole or in part.
- (i) The validation number and agent validation code shall be printed in gray-black ink and the pack-ticket number shall be printed in red ink.
- (j) The ticket must have been issued by the director and sold in an authorized manner.
- (k) The ticket must not be stolen nor appear on any list of omitted tickets on file with the director.
- (1) The play numbers and their captions, the validation number, the agent validation code, and the pack-ticket number must be right-side-up and not reversed in any manner.
- (m) The ticket must be complete, not miscut, and have exactly one play number and exactly one caption under each of the nine rub-off spots on the right portion of the front of the ticket, exactly one pack-ticket number, exactly one agent validation code, and exactly one validation number.
- (n) The validation number of an apparent winning ticket shall appear on the lottery's official list of validation numbers of winning tickets, and a ticket with that validation number shall not have been previously paid.
- (o) The ticket must not be blank, partially blank, misregistered, defective, or printed or produced in error.
- (p) Each of the play numbers must be exactly one of those described in WAC 315-11-110(1) and each of the captions to the play numbers must be exactly one of those described in WAC 315-11-110(4).
- (q) Each of the nine play numbers on the ticket must be printed in the Mead Archer size font and must correspond precisely to the artwork on file with the director, each of the nine captions must be printed in the Mead 5 x 9 font and must correspond precisely to the artwork on file with the director, the pack-ticket number must be .11" high in red and correspond precisely to the artwork on file with the director, and the validation number must be printed in the Mead 9 x 12 font and must correspond precisely to the artwork on file with the director.
- (r) The display printing must be regular in every respect and correspond precisely with the artwork on file with the director.
- (s) The ticket must pass all additional confidential validation requirements of the director.
- (2) Any ticket not passing all the validation requirements in WAC 315-11-112(1) is invalid and ineligible for any prize.
- (3) The director may replace an invalid ticket with an unplayed ticket(s) of equivalent sales price from any other current lottery instant game. In the event a defective ticket is purchased, the only responsibility or liability of the lottery shall be the replacement of the defective ticket with an unplayed ticket(s) of equivalent sales price from any other current lottery game. However, if the ticket is partially mutilated or if the ticket is not intact but can still be validated by the other validation tests, the director may pay the prize for that ticket.

WSR 84-05-054 ADOPTED RULES OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Order 84-3-Filed February 22, 1984]

I, Carolyn V. Patton, director of the Office of Minority and Women's Business Enterprises, do promulgate and adopt at Olympia, the annexed rules relating to criteria for bid specifications, WAC 326-40-010 and 326-40-020.

This action is taken pursuant to Notice No. WSR 83-23-068 filed with the code reviser on November 18, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 39.19 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 22, 1984. By Carolyn V. Patton

By Carolyn V. Patton Director

NEW SECTION

WAC 326-40-010 CRITERIA FOR BID SPECI-FICATIONS – MONETARY VALUE. Where a contract for the purpose of goods or services is to be awarded on the basis of competitive bidding and includes goals for MBE and WBE participation, the award shall not be made on the basis of the vendor's level of MWBE participation unless the contract price is within the lower of 5% or \$5,000.00 of the lowest otherwise responsive bid (determined without regard to MWBE participation).

NEW SECTION

WAC 326-40-020 CRITERIA FOR BID SPECI-FICATIONS – AVERAGING MWBE PARTICIPATION. Where a contract for the purpose of goods and services is to be awarded on the basis of competitive bidding, and includes goals for MBE and WBE participation, and no bidder whose bid is within the range established under section 326-40-010 meets the goals established for such contract, the agency shall treat as responsive any bid which is in all other respects responsive and is within the range established under section 326-40-010, and includes MBE and WBE participation equal to or greater than the average participation included in all competitive bids. Competitive bids shall include all otherwise responsive bids which are within 25% of the lowest otherwise responsive bid.

WSR 84-05-055 PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed February 22, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning marketing order for Washington cranberries, amending WAC 16-565-040;

that the agency will at 2:30 p.m., Friday, April 6, 1984, in the Harbor Community Bank, East Commercial and North 3rd, Raymond, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 29, 1984.

The authority under which these rules are proposed is chapter 15.65 RCW.

The specific statute these rules are intended to implement is RCW 15.65.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1984.

Dated: February 22, 1984
By: Arthur C. Scheunemann
Assistant Director

STATEMENT OF PURPOSE

Title: Washington Cranberry Commission, WAC 16-565-040.

Description and Purpose: Amend WAC 16-565-040 to increase the annual assessment on cranberries.

Statutory Authority: Chapter 15.65 RCW.

Summary of Rule: Rule sets new assessment rate at ten cents per affected unit.

Reasons Supporting Proposal: New rate is an increase to raise more funds for research projects.

Agency Personnel Responsible for Drafting: Roger L. Roberts, Special Programs Administrator, Agricultural Development Division, Washington State Department of Agriculture, 406 General Administration Building, AX-41, Olympia, Washington 98504, (206) 753-5046; Implementation and Enforcement: Washington Cranberry Commission, Star Route Box 450, Grayland, WA 98547.

Persons Proposing Rule: Washington cranberry producers by petition to the director of agriculture as provided for in RCW 15.65.050.

Agency Comments or Recommendations: None.

Rule is not necessary as a result of federal law or federal or state court action.

Small Business Economic Impact: None.

AMENDATORY SECTION (Amending Order 1713, filed 9/12/80)

WAC 16-565-040 ASSESSMENTS AND COLLECTIONS. (1) Assessments.

- (a) The annual assessment on all varieties of cranberries shall be ((five)) ten cents per affected unit (100 lbs.).
 - (b) For the purpose of collecting assessments, the board may:
- (i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or
- (ii) Require the person subject to the assessment to give adequate assurance or security for its payment.

(c) Subsequent to the first sale, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped or sold, both inside and outside the state.

(2) Collections. Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year, may be refunded on a prorata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year, or period whenever the board finds that the same will tend to ef-

fectuate such policies and purposes.

(3) Penalties. Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to, add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

WSR 84-05-056 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Institutions)
[Filed February 22, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning field audits, amending WAC 275-38-600:

that the agency will at 10:00 a.m., Wednesday, March 28, 1984, in H-19, Third Floor Conference Room, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 4, 1984.

The authority under which these rules are proposed is RCW 74.09.120.

The specific statute these rules are intended to implement is RCW 74.09.120.

Interested persons may submit data, views, or arguments to this agency is writing to be received by this agency before March 28, 1984

agency before March 28, 1984.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director Division of Administration and Personnel Department of Social and Health Services Mailstop OB 14 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B.

Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by March 14, 1984. The meeting site is in a location which is barrier free.

Dated: February 21, 1984
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

Re: Amending WAC 275-38-600.

Purpose of the Rule Change: To allow an other than 100% field audit of all IMR cost reports.

The Reason These Rules are Necessary: To allow greater control and effective utilization of department auditing resources.

Statutory Authority: RCW 74.09.120.

Summary of the Rule Change: Advises that cost reports after 1983 may be field audited.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Roger Gantz, Manager, Reimbursement Section, Division of Developmental Disabilities, Mailstop: OB 42C, Telephone: 753-4449.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

Economic Impact on Small Businesses: There is no measurable cost of compliance for small businesses by the WAC provision.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-600 FIELD AUDITS. ((Each annual)) (1) All cost reports for calendar year 1983 shall be field audited by the department.

(2) Cost ((report will)) reports for years subsequent to 1983 may be field audited by auditors employed by or under contract with the department.

WSR 84-05-057 PROPOSED RULES DEPARTMENT OF GAME

(Game Commission)
[Filed February 22, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning holding live wildlife in captivity, amending WAC 232-12-064:

that the agency will at 9:00 a.m., Friday, April 6, 1984, in the Thunderbird Inn, 510 Kelso Drive, Kelso, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1984.

The authority under which these rules are proposed is RCW 77.16.040.

The specific statute these rules are intended to implement is RCW 77.16.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1984.

By: Richard J. Poelker, Administrator
Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-064 Holding live wildlife in captivity.

Statutory Authority: RCW 77.16.040.

Specific Statute that Rule is Intended to Implement: RCW 77.16.040.

Summary of the Rule: Provides permit criteria for holding wild animals, wild birds, or game fish in captivity.

Reasons Supporting the Proposed Rule: Provides permit criteria for holding wild animals, wild birds, or game fish in captivity.

The Agency Personnel Responsible for Drafting and Implementation: Richard J. Poelker, Division Administrator, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, Telephone (206) 753-5728; and Enforcement: R. B. Rasmussen, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, Telephone (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: [No information supplied by agency]

A small business economic impact statement is not necessary.

AMENDATORY SECTION (Amending Order 177, filed 1/28/82)

WAC 232-12-064 HOLDING LIVE WILDLIFE IN CAPTIVITY. It is unlawful to take from the wild, hold in captivity, or possess live wild animals, wild birds, or game fish unless such capture, holding or possession is authorized by a license or permit issued by the department, except it is lawful to keep game fish alive on stringers, in live wells or other containers while fishing.

(1) Application for a permit to hold live wild animals, wild birds, or game fish in captivity will be made on a form to be provided by the department.

(2) The director or his designee may issue a permit if, after investigation, the applicant meets the following criteria:

(a) The holding facilities are adequate to prevent the egress of wildlife subject to the application permit.

(b) Operating conditions are clean and humane.

(c) No hazards to state wildlife exist from the holding of wildlife subject to the application permit.

(d) The permit covers the immediate premises and areas described on the permit where wildlife subject to the application will be held.

(e) Existing conditions ensure the continued health and safety of the

wildlife subject to the application.

(f) That holding of wildlife subject to the application will not ad-

versely affect the Department's obligation to preserve, protect and perpetuate the state's wildlife.

(3) All wildlife and the area where held must be open to inspection

by a wildlife agent at reasonable times.

(4) The holders of a permit to hold live wild animals, wild birds, or game fish in captivity shall make an annual report to the director on a form to be provided by the department.

WSR 84-05-058 PROPOSED RULES DEPARTMENT OF GAME

(Game Commission) [Filed February 22, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning revocation, modification, or suspension of a permit to hold wild animals, wild birds, or game fish in captivity, adopting WAC 232-12-066;

that the agency will at 9:00 a.m., Friday, April 6, 1984, in the Thunderbird Inn, 510 Kelso Drive, Kelso, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1984.

The authority under which these rules are proposed is RCW 77.12.010.

The specific statute these rules are intended to implement is RCW 77.12.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1984.

> Dated: February 22, 1984 By: Richard J. Poelker, Administrator Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-066 Revocation, modification, or suspension of a permit to hold wild animals, wild birds, or game fish in captivity.

Statutory Authority: RCW 77.12.010.

Specific Statute that Rule is Intended to Implement: RCW 77.12.010.

Summary of the Rule: Provides for revocation, modification, or suspension for cause of permit to hold wild animals, wild birds, or game fish in captivity.

Reasons Supporting the Proposed Rule: Provides for revocation, modification, or suspension for cause of permit to hold wild animals, wild birds, or game fish in captivity.

The Agency Personnel Responsible for Drafting and Implementation: Richard J. Poelker, Division Administrator, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, Telephone (206) 753-5728; and Enforcement: R. B. Rasmussen, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, Telephone (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-12-066 REVOCATION, MODIFICATION, OR SUSPENSION OF A PERMIT TO HOLD WILD ANIMALS, WILD BIRDS, OR GAME FISH IN CAPTIVITY. A permit issued hereunder may be revoked, modified or suspended by the director for cause as provided in WAC 232-12-197. Cause shall include, but not be limited to, failure to provide adequate holding facilities and equipment or the failure to provide adequate care, feed or maintenance of wildlife subject to the permit or for inhumane treatment of wildlife.

WSR 84-05-059 PROPOSED RULES DEPARTMENT OF GAME

(Game Commission) [Filed February 22, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Game Commission intends to adopt, amend, or repeal rules concerning:

New

WAC 232-28-806 1984 Mountain Goat, Sheep and Moose Hunting Seasons.

Rep

WAC 232-28-805 1983 Mountain Goat, Sheep and Moose Hunting Seasons;

that the agency will at 9:00 a.m., Friday, April 6, 1984, in the Thunderbird Inn, 510 Kelso Drive, Kelso, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1984.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1984.

> Dated: February 22, 1984 By: Richard J. Poelker, Administrator Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: New section WAC 232-28-806, 1984 Mountain Goat, Sheep and Moose Hunting Seasons.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Adopts rules and regulations relating to the 1984 Mountain Goat, Sheep and Moose Hunting Seasons.

Reasons Supporting the Proposed Rule: Resource

The Agency Personnel Responsible for Drafting and Implementation: Richard J. Poelker, Division Administrator, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, Telephone (206) 753-5728; and Enforcement: R. B. Rasmussen, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, Telephone (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rules: No comments.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232–28–806 1984 MOUNTAIN GOAT, SHEEP AND MOOSE HUNTING SEASONS.

Reviser's note: The text and accompanying pamphlet comprising the 1984 Mountain Goat, Sheep and Moose Hunting Seasons proposed by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232–28–805 1983 MOUNTAIN GOAT, SHEEP AND MOOSE HUNTING SEASONS

WSR 84-05-060 ADOPTED RULES DEPARTMENT OF GAME

(Game Commission)

[Order 223—Filed February 22, 1984]

Be it resolved by the State Game Commission, acting at the Department of General Administration, 218 General Administration Building, Olympia, that it does adopt the annexed rules relating to 1984 Spring Bear and Turkey Seasons, WAC 232-28-706.

This action is taken pursuant to Notice No. WSR 83-23-082 filed with the code reviser on November 21, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State

Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 9, 1984.

By Vern E. Ziegler

Chairman, Game Commission

NEW SECTION

WAC 232–28–706 1984 SPRING BEAR AND TURKEY SEASONS.

Reviser's note: The text and accompanying pamphlet comprising the 1984 Spring Bear and Turkey Seasons adopted by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 232-28-705 1983 SPRING BEAR AND TURKEY SEASONS

WSR 84-05-061 EMERGENCY RULES DEPARTMENT OF GAME

(Game Commission)

[Order 232-Filed February 22, 1984]

Be it resolved by the Washington State Game Commission, acting at Olympia, by conference call, that it does adopt the annexed rules relating to change in 1983–84 trapping seasons and regulations, WAC 232-28-50601.

We, the Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is muskrat damage has occurred on the irrigation wasteways in Grant County and there is potential for increased damage. This situation is due to high muskrat population levels resulting from low trapping pressure and low fur prices.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 21, 1984.

By Vern E. Ziegler

Chairman, Game Commission

NEW SECTION

WAC 232-28-50601 CHANGE IN 1983-84 TRAPPING SEASONS AND REGULATIONS. Notwithstanding the provisions of WAC 232-28-506, the season for trapping muskrat in Grant County is extended to March 15, 1984.

WSR 84-05-062 PROPOSED RULES UTILITIES AND TRANSPORTATION COMMISSION

[Filed February 22, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning WAC 480–120–088 relating to automatic dialing-announcing devices. The proposed amendatory section is described in Cause Nos. U-83-51 and U-83-56. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendment on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17). Comment is also invited on whether the regulation of automatic dialing-announcing devices should be discontinued, or strengthened, or otherwise modified;

that the agency will at 9:00 a.m., Wednesday, March 21, 1984, in the Commission's Hearing Room, Sixth Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 80.01.040 and 80.04.160.

The specific statute these rules are intended to implement is RCW 80.36.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 16, 1984.

This notice is connected to and continues the matter in Notice Nos. WSR 83-23-103, 84-02-068 and 84-03-051 filed with the code reviser's office on November 23, 1983, January 4, 1984, and January 18, 1984, respectively.

Dated: February 22, 1984
By: Barry M. Mar
Secretary

WSR 84-05-063 NOTICE OF PUBLIC MEETINGS HUMAN RIGHTS COMMISSION

[Memorandum—February 21, 1984]

The State Human Rights Commission, at its adjourned regular meeting on February 6, 1984, voted to

adjourn the meeting at 1:20 p.m. and to reconvene on March 14, at 9:30 a.m. The meeting on March 14, 1984, will adjourn that day to be reconvened at 9:30 a.m. the next day, March 15, 1984. The change in time and extension of the meeting has been planned in order to allow for a goals setting session to be included in the regular commission meeting.

The meeting will be held at the Edgewater Inn, 2411 Alaskan Way, Pier 67, Seattle, Washington.

WSR 84-05-064 NOTICE OF PUBLIC MEETINGS STATE CONVENTION AND TRADE CENTER

[Memorandum—February 21, 1984]

The board of directors desires to insure full participation by the board at the regular meeting of March 1984.

The board of directors desires to change the date of the regular meeting of March 1984 from the third Thursday to Monday, March 26.

Regular monthly meetings of the board of directors of the corporation in 1984 shall be held on the third Thursday of each month at 3 p.m., except for the month of March when the meeting will be held at 3 p.m. on Monday, March 26, in the meeting room of the Corporate Office of the Washington State Convention and Trade Center, Marsh and McLennan Building, 720 Olive Way, Suite 1520, Seattle, Washington 98101, unless notice of any rescheduled meeting shall be otherwise given in accordance with the bylaws of this corporation and any applicable provisions of state law.

WSR 84-05-065 PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed February 22, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules relating to use of insecticides on pollen shedding corn, WAC 16-230-082 and 16-230-088;

that the agency will at 2:00 p.m., Wednesday, April 4, 1984, in the Holiday Inn, 9 North 9th Street, Yakima, WA 98901, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 10, 1984.

The authority under which these rules are proposed is chapters 15.58 and 17.21 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1984.

Dated: February 22, 1984 By: Art G. Losey

Assistant Director

STATEMENT OF PURPOSE

Title: Amending WAC 16-230-082, 16-230-084, 16-230-086 and 16-230-088.

Description of Purpose: Amend rules relating to use of insecticides on pollen shedding corn.

Statutory Authority: Chapters 17.21 and 15.58 RCW. Summary of Rules: These sections were previously codified in regulation form. They have been changed to WAC format with additional chemicals restrictions added.

Reasons Supporting Proposed Action: Revisions are necessary to comply with the Washington Administrative Code and for the protection of beneficial pollinating

Agency Personnel Responsible for Drafting: Art G. Losey, Assistant Director, Chemical and Plant Division, 406 General Administration Building, Olympia, Washington 98504, (206) 753-5064.

Persons Proposing Rule: Agency.

Agency Comments or Recommendations: None.

Rule amendments necessary to protect beneficial pollinating insects.

Small Business Economic Impact Statement: No impact, none required.

NEW SECTION

WAC 16-230-082 POLLEN SHEDDING CORN-RE-STRICTED USE PESTICIDES—AREA UNDER ORDER. (1) The term "pollen shedding corn" as used in WAC 16-230-082 through WAC 16-230-088 shall be that stage of growth when ten percent or more of the corn plants in any one quarter portion of a field are showing spike anthers.

(2) The insecticides carbaryl (Sevin), diazinon, endosulfan (Thiodan), fenvalerate (Pydrin), malathion, methomyl (Lannate or Nudrin), methyl parathion, parathion, and permethrin (Ambush or Pounce) are by this order declared to be restricted use insecticides. Such insecticides are restricted in their use in Areas 1, 2 and 3 in eastern Washington.*

(3) Area under order. Area 1 - Yakima county; Area 2 - Franklin, Adams and Grant counties; Area 3 - Area within Area 2 in Grant

* Listed trade names are to be used as a guide and may not include all the trade or brand names under which the chemicals are distributed.

NEW SECTION

WAC 16-230-084 AREAS 1 AND 2. (1) Area 1 description -Yakima county. This area includes all of the irrigable lands encompassed by a line beginning at the southwest corner of Section 18, T8N. R21E: thence north seven miles more or less to the southeast corn of Section 36, T10N, R20E; thence fifteen miles west more or less to the southwest corner of Section 34, T10N, R18E; thence north fifteen miles more or less to the northwest corner of Section 22, T12N, R18E; thence east four miles more or less to the Northern Pacific Railroad tracks; thence following the tracks southeast to the Oldenway Road; thence north along the Oldenway Road and section lines to the Yakima river; thence southeast along the Yakima river to Highway 97 north of Toppenish; thence north along Highway 97 to Highway 410 at Buena; thence southeasterly along Highway 410 to the southeast corner of Section 36, T11N, R20E (southern tip of Zillah); thence southeast along the Yakima river to the Sunnyside-Mabton Road; thence south one mile to the Boundary Road; thence southwest along the Boundary Road and the Yakima Indian reservation boundary to the northern section line of Section 22, T8N, R22E; thence west nine miles more or less to the point of beginning.

(2) Area 2 description - Franklin, Adams and Grant counties. This area includes all of the irrigable lands encompassed by a line beginning at Highway 12 and the Columbia river; thence north and west following the river the length of Franklin county and into Grant county to the junction of Grant-Douglas county line; thence north on Grant-

Douglas county line to the fifth standard parallel north; thence east twenty-five miles more or less to Highway 17; thence southeast seventeen miles more or less on Highway 17 to Highway 90; thence east twelve miles more or less to Grant-Adams county line; thence south on county line twelve miles more or less to the southeast corner of Section 36, T17N, R30E (southeast corner of Grant county); thence south twelve miles more or less (in Adams county) along east boundary of Section 1, 12, 13, 24, 25, 36, T16N, R30E; thence south along east boundary of Sections 1, 12, 13, 24, 25, 36, T15N, R30E continuing south into Franklin county along east boundary of Section 1 and 12, T14N, R30E to southeast corner of said Section 12; thence west one mile to Highway 17 (Franklin county); thence south on Highway 17 seventeen miles more or less to junction with Highway 395; thence south on Highway 395 fifteen miles more or less to Highway 12; thence west and south four miles more or less to Columbia river to the point of beginning.

(3) Area 1 and 2 restrictions.

(a) On and after August 1 to October 1 of any given year, application of carbaryl (Sevin) (except Sevin XLR), parathion, methyl parathion and malathion dust in any combination on pollen shedding corn is prohibited.

(b) On and after August 1 to August 15 of any given year, application of diazinon, fenvalerate (Pydrin), endosulfan (Thiodan), Sevin XLR, methomyl (Lannate or Nudrin), malathion liquid, and permethrin (Ambush or Pounce) on pollen shedding corn is prohibited between the hours of 7:00 a.m. and 2:00 p.m.

(c) On and after August 15 to September 1 of any given year, application of diazinon, fenvalerate (Pydrin), endosulfan (Thiodan), Sevin XLR, methomyl (Lannate or Nudrin), malathion liquid, and permathrin (Ambush or Pounce) on pollen shedding corn is prohibited between the hours of 8:30 a.m. and 3:30 p.m.

(d) On and after September 1 to October 1 of any given year, application of diazinon, fenvalerate (Pydrin), endosulfan (Thiodan), Sevin XLR, methomyl (Lannate or Nudrin), malathion liquid, and permethrin (Ambush or Pounce) on pollen shedding corn is prohibited between the hours of 10:00 a.m. and 4:00 p.m.

(e) The application of microencapsulated methyl parathion shall be prohibited on all pollen shedding corn when properly marked honey bee apiaries occur within a six-mile radius of the pollen shedding corn to be treated.

NEW SECTION

WAC 16-230-086 AREA 3. (1) Area 3 description - area within Area 2 in Grant county. This area includes all of the irrigable lands encompassed by a line beginning at the junction of west 645 wasteway and White Trail Road and proceeding east four miles more or less on White Trail Road to Winchester wasteway; thence southeast four miles more or less along Winchester wasteway to I-90; thence east on I-90 nine miles more or less to Potholes Reservoir; thence following the west shoreline southeast to the Frenchmen Hills wasteway; thence west along Frenchmen Hills wasteway fourteen miles more or less to its junction with West 645 wasteway; thence northwest and north fourteen mils more or less along West 645 wasteway to junction with White Trail Road, the point of beginning.

(2) Area 3 restriction. This area is unrestricted as to the use of carbaryl (Sevin), diazinon, endosulfan (Thiodan), fenvalerate (Pydrin), malathion, methomyl (Lannate or Nudrin), methyl parathion, parathion, and permethrin (Ambush or Pounce) on pollen shedding corn: PROVIDED, That the application of microencapsulated methyl parathion shall be prohibited on all pollen shedding corn when properly marked honey bee apiaries occur within a six-mile radius of the pollen shedding corn to be treated.

NEW SECTION

WAC 16-230-088 PERMIT. Upon receipt of a written request and justification for a variance, the director of the Washington state department of agriculture may issue a permit granting a variance from restrictions pertaining to pollen shedding corn.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

- (1) WAC 16-230-100 PROMULGATION. (2) WAC 16-230-101 PROMULGATION.

WSR 84-05-066 PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed February 22, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules relating to use of insecticides on blossoming clover, alfalfa and mint, WAC 16-230-010 through 16-230-078;

that the agency will at 1:00 p.m., Wednesday, April 4, 1984, in the Holiday Inn, 9 North 9th Street, Yakima, WA 98901, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 10, 1984.

The authority under which these rules are proposed is chapters 15.58 and 17.21 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1984.

Dated: February 22, 1984 By: Art G. Losey

Assistant Director

STATEMENT OF PURPOSE

Title: Amending WAC 16-230-010, 16-230-015, 16-230-030, 16-230-070, 16-230-076 and 16-230-078.

Description of Purpose: Amend rules relating to use of insecticides on blossoming alfalfa, clover and mint.

Statutory Authority: Chapters 17.21 and 15.58 RCW. Summary of Rules: Revision of restricted use chemical list and chemical application restrictions; establishment of Areas 1 and 2 and restrictions pertaining thereto.

Reasons Supporting Proposed Action: Revisions are necessary for the protection of beneficial pollinating insects.

Agency Personnel Responsible for Drafting: Art G. Losey, Assistant Director, Chemical and Plant Division, 406 General Administration Building, Olympia, Washington 98504, (206) 753-5064.

Persons Proposing Rule: Agency.

Agency Comments or Recommendations: None.

Rule amendments necessary to protect beneficial pollinating insects.

Small Business Economic Impact Statement: No impact, none required.

AMENDATORY SECTION (Amending Order 1041, filed 2/15/67)

WAC 16-230-010 RESTRICTED USE PESTICIDES ON BLOSSOMING ALFALFA, CLOVER AND MINT—AREA UNDER ORDER. (1) The following agricultural pesticides are ((by this order)) declared to be restricted use pesticides in all counties of the state of Washington: ((Abate, Aldrin, Banol, Baytex, BHC (Benzene Hexachloride), Bidrin, Bomyl, Chlordane, Diazinon, Dibrom, Dieldrin, Dilan, Dimethoate (Cygon), Di-Syston, DDT, Delnav, Demeton (Systox), Dylox, Endrin, EPN, Ethion, Ethyl-Methyl Guthion, Heptachlor, Imidan, Lindane, Malathion, Menazon, Metacide, Metasystox R, Methoxychlor, Methyl Parathion, Methyl Trithion, NPD, Parathion, Perthane, Phorate, Phosdrin, Phosphamidon, Phostex, TDE (Rhothane or DDD), TEPP, Thiocron, Thiodan, Toxaphene, Trithion, Vapona, and Zectran.)

COMMON CHEMICAL NAME	ALSO KNOWN AS*
acephate	Orthene
azinphos-methyl	Guthion
carbaryl	Sevin
carbofuran	Furadan
carbophenothion	Trithion
chlorpyrifos	Lorsban
demeton	<u>Systox</u>
diazinon	
dimethoate	Cygon, Rebelate
disulfoton	Di-Syston
endosulfan	<u>Thiodan</u>
fenthion	Baytex
formetanate hydrochloride	Carzol
malathion	Cythion
methidathion	Supracide
methomyl	Lannate, Nudrin
methoxychlor	<u>Marlate</u>
methyl parathion	m
mevinphos	<u>Phosdrin</u>
naled	<u>Dibrom</u>
oxamyl	Vydate
oxydemeton-methyl	Metasystox-R
parathion	mi ·
phorate	Thimet
phosmet	<u>Imidan</u>
trichlorfon	Dylox

* This column is to be used only as a guide and may not include all brand or trade names under which these chemicals are distributed.

(2) Area under order. All counties of the state of Washington.

AMENDATORY SECTION (Amending Order 1041, filed 2/15/67)

WAC 16-230-015 DEFINITION. (1) The term "blossoming alfalfa, mint or clover" as used in ((this order)) WAC 16-230-010 through WAC 16-230-083 shall be when there are five or more blooms per square yard on the average in a given field: PROVIDED, That following the first cutting the bloom count shall be taken only on the current crop. For the purpose of this ((regulation)) rule, a "bloom" on clover or alfalfa is defined as any ((clover head or)) alfalfa raceme or clover head containing one or more open flowers. A "bloom" on mint is defined as any head or spike with one or more open (florets) flowers.

(2) The time of sunrise and sunset shall be that of the official tables, U.S. Weather Bureau, Yakima, Washington.

AMENDATORY SECTION (Amending Order 1041, filed 2/15/67)

WAC 16-230-030 ((USE CHEMICALS—TIME WHEN)) AL-FALFA AND CLOVER—CHEMICAL RESTRICTIONS. (1) The use or application of any formulation (except where the formulation is specified) of the following listed pesticides ((or any formulation thereof)) shall be prohibited on blossoming alfalfa and clover crops within seven days to blossoming. See WAC 16-230-076 and WAC 16-230-078 for additional restrictions in certain areas of Walla Walla county. ((is restricted to applications only within the period beginning at two hours prior to sunset and ending at two and one-half hours after sunrise the following morning: PROVIDED, That Endrin, Abate, and DDT plus Toxaphene may only be applied to blossoming clover crops pursuant to this regulation and their application to blossoming alfalfa shall be made pursuant to WAC 16-230-050

(a) Abate

(b) DDT

(c) Delnav

(d) Demeton (Systox)

(e) Dibrom (Emulsifiable Concentrate)

(f) Dieldrin (Granular)

(g) Dilan

(h) Di-Syston

(i) Dylox (Trichlorphon)

(j) Endrin

(k) Ethion

(1) Heptachlor (Granular)

(m) Menazon

(n) Metasystox R (Methyl Demeton)

(o) Methoxychlor

(p) NPD

(q) Perthane

- (r) Phorate (Thimet-Granular)
- (s) Phosdrin (Mevinphos) (Liquid)
- (t) Phostex
- (u) TDE (Rhothane or DDD)
- (v) TEPP
- (w) Thiocron
- (x) Thiodan (Endosulfan)
- (y) Toxaphene
- (z) Trithion (Carbopenothion)))
- (a) Azinphos-methyl (Guthion)
- (b) Carbaryl (Sevin)
- (c) Carbofuran (Furadan)
- (d) Chlorpyrifos (Lorsban)
- (e) Dimethoate (Cygon or Rebelate)
 (f) Methidathion (Supracide)
- (2) The use or application of liquid formulations of mevinphos (Phosdrin), wettable powder formulations of naled (Dibrom), and liquid or wettable powder formulations of malathion and phorate (Thimet) applied as sprays on blossoming alfalfa or clover crops is restricted to applications only within the period beginning at two hours prior to sunset and ending at midnight of the same day.

(3) The use or application of any formulation (except where the formulation is specified) of the following pesticides shall be prohibited

on blossoming alfalfa and clover crops:

- (a) Carbaryl (Sevin) see number (1) above
- (b) Diazinon
- (c) Fenthion (Baytex)
- (d) Malathion dust & ULV
- (e) Methyl parathion
- (f) Mevinphos (Phosdrin) dust
- (g) Naled (Dibrom) dust
- (h) Parathion
- (i) Phosmet (Imidan)
- (4) The use or application of the following listed pesticides or any formulation thereof (except where the formulation is specified) on blossoming alfalfa and clover crops is restricted to applications only within the period beginning at two hours prior to sunset and ending at two and one-half hours after sunrise the following morning: PRO-VIDED, That methomyl (Lannate or Nudrin) shall only be applied to blossoming clover crops pursuant to this rule, and its application to blossoming alfalfa is further restricted to applications only within the period beginning at two hours prior to sunset and ending at midnight the same day: PROVIDED FURTHER, That the application of the following restricted use pesticides on blossoming alfalfa in Walla Walla county is further restricted to applications only within the period beginning at sunset and ending at two hours after midnight the following morning:
 - (a) Carbophenothion (Thrithion)
 - (b) Formetanate hydrochloride (Carzol)
 - (c) Demethon (Systox)
 - (d) Naled (Dibrom) emulsifiable concentrate (e) Disulfoton (Di-Syston)

 - (f) Endosulfan (Thiodan)
 - (g) Oxydemeton-methyl (Metasystox-R) (h) Methomyl (Lannate or Nudrin)

 - (i) Methoxychlor (Marlate)
 - (j) Phorate (Thimet) granular
 - k) Tricholorfon (Dylox)
 - (I) Oxamyl (Vydate)

AMENDATORY SECTION (Amending Order 1041, filed 2/15/67)

WAC 16-230-075 ((MALATHION, PHOSDRIN AND TEPP-TIME WHEN)) BLOSSOMING MINT—CHEMICAL RESTRICTIONS. The use or application of ((the pesticides known as)) Maltion dust, ((Phosdrin (mevinphos), and TEPP)) on blossoming mint ((crops)) is ((restricted)) prohibited. The use or application of malathion liquid, acephate (Orthene), oxydemetonmethyl (Metasystox-R), and methomyl (Lannate or Nudrin) liquid on blossoming mint is restricted to applications only within the period beginning at two hours prior to sunset and ending at two and one-half hours after sunrise the following morning. The use or application of any formulation of acephate (Orthene) is prohibited on blossoming mint within seven days to blossoming ((: PROVIDED, That this time restriction shall apply to TEPP only if the federal registration allowing the use of Kelthane on mint is reinstated)).

NEW SECTION

WAC 16-230-076 AREA 1. (1) Area 1 description. South central Walla Walla county - all lands lying within a line starting at the junction of the Washington-Oregon border and the Rainville Road; thence north along the Rainville Road to the Frog Hollow Road; thence west along the Frog Hollow Road to the McDonald Road; thence north along the McDonald and Bridge Road to State Highway 12; thence west along Highway 12 to the Woodward Canyon Road; thence north and west along the Woodward Canyon Road to the northeast corner of Section 24, T7N, R33E; thence west along the section lines to the northwest corner of Section 23, T7N, R32E; thence south along the section lines to the Walla Wall river; thence southerly along the Walla Walla river to its intersection with the west section line of Section 7, T6N, R33E; thence south along the section lines to the Washington-Oregon border; thence east along the border to the point of beginning.

(2) Area 1 restrictions. In addition to the restrictions in WAC 16-230-030, the use or application of azinphos-methyl (Guthion), carbofuran (Furadan), and methidathion (Supracide) on alfalfa and clover crops, shall be prohibited after May 23 of each year, and the use or application of dimethoate (Cygon or Rebelate) on alfalfa and clover

crops shall be prohibited after May 30 of each year.

NEW SECTION

WAC 16-230-078 AREA 2. (1) Area 2 description. South central Walla Walla county - All lands lying within a line starting at the junction of the Rainville Road and the Washington-Oregon border; thence north to the Frog Hollow Road; thence east along the Frog Hollow Road to the Valley Chapel Road; thence south along the Valley Chapel Road to the Washington-Oregon border; thence west along the border to the point of beginning.

(2) Area 2 restrictions. In addition to the restrictions in WAC 16-230-030, the use or application of azinphos-methyl (Guthion), carbofuran (Furadan), and methidathion (Supracide) on alfalfa and clover crops, shall be prohibited after May 30 of each year, and the use or application of dimethoate (Cygon or Rebelate) on alfalfa and clover

crops shall be prohibited after June 6 of each year.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

PROMULGATION.

WAC 16-230-001 WAC 16-230-020 NONUSE ON BLOSSOMING ALFALFA AND CLOVER CROPS.

WAC 16-230-040 SPRAY CHEMICALS—TIME WHEN. WAC 16-230-050 ENDRIN SPRAY OR DUST—TIME

WAC 16-230-060 DIELDRIN SEVIN-SPRAY OR DUST—TIME WHEN.

WAC 16-230-080 TIME OF SUNRISE AND SUNSET. WAC 16-230-085 AIRCRAFT CARRYING I USE PESTICIDES—PERMISSION REQUIRED. AIRCRAFT CARRYING RESTRICTED

WAC 16-230-090 RESTRICTIONS IN CERTAIN AREAS.

WSR 84-05-067 PROPOSED RULES DEPARTMENT OF REVENUE

[Filed February 22, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning WAC 458-20-114.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Tuesday, March 27, 1984.

The authority under which these rules are proposed is RCW 82.32.300.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Tuesday, March 13, 1984.

This notice is connected to and continues the matter in Notice Nos. WSR 84-02-045 and 84-05-027 filed with the code reviser's office on January 3, 1984, and February 14, 1984.

Dated: February 22, 1984

By: Matthew J. Coyle

Deputy Director

STATEMENT OF PURPOSE

Title: WAC 458-20-114 Nonbusiness income, bona fide initiation fees, dues, contributions, tuition fees and endowment funds.

Description of Purpose: To clarify the nature of certain kinds of nonbusiness income entitled to excise tax deduction. To provide common definitions of certain statutory terms and the methods and formulae for distinguishing between taxable and nontaxable income and for determining the proper tax classifications for taxable portions. To explain when any portion of initiation fees or dues may be subject to excise taxes as not deductible. To delete certain outmoded or inapplicable terms concerning tuition fees deductible by qualifying educational institutions.

Statutory Authority: RCW 82.32.300.

Specific Statute(s) Rule is Intended to Implement: RCW 82.04.030, 82.04.050, 82.04.170, 82.04.290, 82.04.4282 and 82.08.010(2).

Reasons Supporting Proposed Action: To administer the amendment of RCW 82.04.4282 (formerly RCW 82.04.430(2)), effective July 1, 1979, which altered the conditions under which some portions of amounts derived from initiation fees and/or dues are not to be considered deductible from excise tax liability. To satisfy the needs and requests of organizations which are entitled to tax deduction of initiation fees and/or dues by providing the guidelines and accounting formulae for determining deductibility thereof.

Agency Personnel Responsible for Drafting and Implementation: DeLoss H. Brown, 415 General Administration Building, Olympia, Washington 98504, Telephone: 753-5544; and Enforcement: Department of Revenue, General Administration Building, Olympia, Washington 98504, Telephone: 753-5540.

AMENDATORY SECTION (Amending Order ET 70-3, Rule 114, filed 5/29/70, effective 7/1/70)

WAC 458-20-114 NONBUSINESS INCOME—BONA FIDE INITIATION FEES, DUES, CONTRIBUTIONS, ((DONATIONS,)) TUITION FEES AND ENDOWMENT FUNDS. ((Amounts derived from bona fide initiation fees, dues, contributions, donations, tuition fees and endowment funds may be deducted from the measure of tax under the business and occupation tax. (RCW 82.04.430(2)) [RCW 82.04.4282]. This deduction is construed strictly and such amounts may be deducted only if:

1. They are bona fide, and

2. They have been included in the gross amount reported under the classification with respect to which the deduction is sought, and

3. They have not been otherwise deducted through inclusion in the amount of an allowable deduction taken under such classification for another reason, and

4. They do not exceed the limitations hereinafter set forth.

Amounts which may be deducted as initiation fees are those amounts only which are actually required to be paid by a person to a club or similar organization for the sole privilege of joining such club or similar organization.

Amounts which may be deducted as dues are those amounts only which a member must pay toward the support of a club or similar organization in order to retain membership therein. Amounts which are for, or graduated upon, the amount of services rendered to a member of such club or organization may not be deducted. The terms "dues" and "initiation fees" must be given their ordinary meaning and do not include, for example, amounts paid to trade or industry associations for services rendered and such payments are proportional to the size and volume of the member's business or manufacturing operations.)) RCW 82.04.4282 provides for a business and occupation tax deduction for amounts derived from activities and charges of essentially a nonbusiness nature. Thus, outright gifts, donations, contributions, endowments, tuition, and initiation fees and dues which do not entitle the payor to receive any significant goods or services in return for the payment are not subject to business and occupation tax. The scope of this statutory deduction is limited to situations where no business or proprietary activity (including the rendering of goods or services) is engaged in which directly generates the income claimed for deduction.

Many for-profit or nonprofit entities may receive "amounts derived," as defined in this rule, which consist of mixture of tax deductible amounts (bona fide initiation fees and dues) and taxable amounts (payment for significant goods and services rendered). For purposes of distinguishing between these kinds of income, the law requires that tax exemption provisions must be strictly construed against the person claiming exemption. Also, RCW 82.32.070 requires the maintenance of suitable records as may be necessary to determine the amount of any tax due. The result of these legal requirements is that all persons must keep adequate records sufficient to establish their entitlement to any claimed tax exemption or deduction.

CONTRIBUTIONS, DONATIONS, AND ENDOWMENTS.

Only amounts which are received as outright gifts are entitled to deduction. Any amounts, however designated, which are received in return for any goods, services, or business benefits are subject to business and occupation tax under the appropriate classification depending upon the nature of the goods, services, or benefits provided. Thus, for example, so-called "grants" which are received in return for the preparation of studies, white papers, reports, and the like do not constitute deductible contributions, donations, or endowments. RCW 82.04.4297 and WAC 458-20-169 provide for a specific deduction for compensation from public entities for health or social welfare services.

BONA FIDE INITIATION FEES AND DUES.

The law does not contemplate that the deduction should be granted merely because the payments required to be made by members or customers are designated as "initiation fees" or "dues." The statutory deduction is not available for outright sales of tangible personal property or for providing facilities or services for a specific charge. Neither is it available ". . . if dues are in exchange for any significant amounts of goods or services rendered by the recipient thereof to members without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered . . " (RCW 82.04-4282). Thus, it is only those initiation fees and dues which are paid for the express privilege of belonging as a member of a club, organization, or society, which are deductible.

Also, the statute does not distinguish between the kinds of clubs, organizations, associations, or other entities which may be eligible for this deduction. They may be operated for profit or nonprofit. They may be owned by the members, incorporated, or operating as a partnership, joint venture, sole proprietorship, or cooperative group. They may be of a charitable, fraternal, social, political, benevolent, commercial, or other nature. However, none of these characteristics determines the entitlement to tax deduction. The availability of the deduction is determined solely by the nature of the activity or charge which generates the "amounts derived" as defined in this rule.

The deduction is limited to business and occupation tax. There is no provision under the law for any deduction from retail sales tax or use tax of amounts designated as initiation fees or dues. Consequently, any club or organization that collects dues or initiation fees from members who in turn receive tangible personal property or retail services as defined in RCW 82.04.050, or licenses to use real property as defined in RCW 82.04.050, must collect and report retail sales tax on the value of such goods or services sold. (See WAC 458-20-183, Places of

amusement or recreation, and WAC 458-20-166, Hotels, motels, boarding houses, resorts, summer camps, trailer camps, etc., for additional guidance relative to retail sales and retail services.)

DEFINITIONS:

The words and terms utilized in RCW 82.04.4282 are not given a statutory definition in the Revenue Act. Under the general rules of statutory construction, those words and terms are to be given their or-dinary and common meaning. Hence, for purposes of RCW 82.04.4282 and this rule the following definitions will apply:

Amounts derived" means gross income from whatever source and however designated. It includes "gross proceeds of sales" and "gross income of the business" as those terms are defined by RCW 82.04.070 and 82.04.080, respectively. It shall also include income attributable to bona fide initiation fees and bona fide dues.

Bona fide" shall have its common dictionary meaning, i.e., in good

faith, authentic, genuine.

"Initiation fees" are those initial amounts which are paid solely to admit a person as a member to a club or organization. "Bona fide initiation fees" within the context of this rule shall include only those one-time amounts paid which genuinely represent the value of membership in a club or similar organization. It shall not include any amount paid for or attributable to the privilege of receiving any goods or services other than mere nominal membership.

"Dues" are those amounts paid solely for the privilege or right of retaining membership in a club or similar organization. "Bona fide dues" within the context of this rule shall include only those amounts periodically paid by members which genuinely entitle those persons to continued membership in the club or similar organization. It shall not include any amounts paid for goods or services rendered to the member by the club or similar organization.

"Significant amount" relates to the quantity or degree of goods or services rendered and made available to members by the organization.
"Significant" is defined as having important meaning or the quality of

being important.

"Goods or services rendered" shall include those amusement and recreation activities as defined in RCW 82.04.050, WAC 458-20-166, and 458-20-183. The term shall include the totality or aggregate of goods or services available to members. It is not determinative that some members actually receive more goods or actually enjoy more services than others so long as the totality of the goods or services offered are made available to members in general.

Any additional charge" means a price or payment other than bona fide initiation fees or dues, paid by persons for particular goods and services received. The additional charge must be reasonable and any business and/or sales taxes must be paid upon such charges in order to qualify other income denominated as "dues" to be deductible. The reasonableness of any additional charge will be based on one of the following two criteria: (1) It must cover all costs reasonably related to furnishing the goods or services, or (2) it must compare with charges made for similar goods or services by other commercial businesses.

"Value of such goods or services" shall mean the market value of similar goods or services or computed value based on costs of production.

METHODS OF REPORTING:

Persons who receive any "amounts derived" from initiations fees and/or dues may report their tax liabilities and determine the amount of tax reportable under different classifications (Retailing or Service) by use of alternative methods, based upon:

- A standard deduction of 20 percent of gross income (This method is available for use only by not-for-profit organizations); or,
- 2. Actual records of facilities usage; or,
- 3. Cost of production of facilities and benefits.

All amounts derived from initiation fees and dues must be reported as gross income which then must be apportioned between taxable and deductible income. The alternative apportionment methods are mutually exclusive. Thus, if a qualifying organization elects to use the standard deduction, neither of the other methods may be used. Organizations which cannot qualify to take the standard deduction, or which elect not to do so, may apportion their income based upon such actual records of facilities usage as are maintained. This method is accomplished by:

a) The allocation of a reasonable charge for the specific goods or services rendered: PROVIDED, That in no case shall any allocation of any separate charge for any goods or services be deemed "reasonable" if the aggregate of such charges is insufficient to cover the costs of providing such goods or services; or,

b) The average comparable charges for such goods or services made by other commercial businesses.

The actual records of facilities usage method must reflect the nature of the goods or services and the frequency of use by the membership, either from an actual tally of times used or a periodic study of the average membership use of facilities. Actual usage reporting may also be based upon a graduated or sliding fees and dues structure. For example, an organization may charge different initiation fees or dues rates for a social membership than for a playing membership. The difference between such rates is attributable to the value of the goods or services rendered. It constitutes the taxable portion of the "amounts derived" allocable to that particular activity. Because of the broad diversification of methods by which "amounts derived" may be assessed or charged to members, the actual records of usage method of reporting may vary from organization to organization. The following are some examples of this reporting method for several different kinds of facilities.

Facility	Period	Source	Value Base	Usage	<u>Value</u>	Taxable Income
					•	
<u>Golf</u>	3 mos	Reservations	Mkt Comparison	5,000 <u>rounds</u>	x \$7.50 per Round	<u>\$37,500</u>
Camping	6 mos	Vacancy Study	Mkt Comparison	4,500 stays	x \$12.50 per	<u>\$56,250</u>
Racquetball	9 mos	Reservations	Charge to Nonmember	1,250 hours	X \$4.00 per Hour	<u>\$5,000</u>
Swimming	12 mos	Member Survey	Actual Charges	3,650 uses	x \$1.00 per	<u>\$3,650</u>
Tennis	<u>1 mo</u>	Graduated Fee Structure	Graduated Fee Structure	200 playing members	$ \underline{x} \frac{\underline{\text{Use}}}{\$50.00} \text{per} \\ \underline{\text{Member}} $	\$10,000
Figures and doll	ar amounts s	hown are hypothetical.				

Organizations which provide more than one kind of "goods or services" as defined in this rule, may provide such actual records for each separate kind of goods or services rendered. Based upon this method the total of apportioned "taxable" income may be subtracted from total gross income to derive the amount of gross income which is entitled to deduction as "bona fide initiation fees and dues" under RCW 82.04.4282.

COST OF PRODUCTION METHOD.

This alternative apportionment method is available only for persons who do not take the standard deduction and when, it is impossible or unfeasible to maintain actual usage records. Under such circumstances apportionment of income may be done based upon the cost of production of goods or services rendered. Persons using this method are advised to seek the department's review of the cost accounting methods applied, in order to avoid possible tax deficiency assessment if records are audited. In such cases the cost of production shall include all items of expense attributable to the particular facility (goods or services) made available to members, including direct and indirect overhead costs.

Direct overhead costs include all items of expense immediately associated with the specific goods or services for which the costs of production method is used, e.g., the salary of a swimming pool lifeguard or a golf club's greenskeeper.

Indirect overhead costs include a pro rata share of total operating costs, including executive and employee salaries as well as a pro rata share of administrative expense and the cost of depreciable capital assets.

No portion of assets which have been fully depreciated will be included in computing overhead costs, nor will there be included any costs attributable to membership recruitment and advertising, or providing members with the indicia of membership (membership cards, certificates, contracts of rights, etc.).

The cost of production method is performed by multiplying gross income (all "amounts derived") by a fraction, the numerator of which is the cost of providing any specific goods or service, and the denominator of which is the organization's total operating costs. The formula looks like this:

Direct and Indirect Costs of Specific Goods or Service

x Gross Income

Total Business Costs

The result is the portion of "amounts derived" which is allocable to the taxable facility (goods or services rendered.) The balance of gross amounts derived is deductible as bona fide initiation fees or dues. If more than one kind of facility (goods or services) is made available to members, this formula must be applied for each in order to determine the total of taxable and deductible amounts and to determine the amount of taxable income to report as either retailing taxable or service taxable.

Under very unique circumstances and only upon advance written request and approval, the department will consider variations of the foregoing accounting methods as well as additional factors shown to be unique to certain kinds of organizations.

Unless income accounting and reporting are accomplished by one or a combination of methods outlined in this rule, or under a unique reporting method authorized in advance by the department, it will be presumed that all "amounts derived" by any person who provides "goods or services" as defined herein, constitute taxable, nondeductible amounts.

TAX CLASSIFICATIONS.

Persons who derive income from initiation fees and dues may find that they have incurred business and occupation tax liability under both the retailing and service and other activities classifications. For example, an organization may furnish golf as well as sauna bath facilities to its members in return for payment of dues. The former is a retailing taxable activity while the latter is taxable under the service business tax. These taxes are at different rates. Once the income has been apportioned between taxable and deductible amounts, the parts of taxable income attributable to either retailing activities or service activities must be reported on the excise tax return under the appropriate classification and under the prevailing tax rates. In addition, state and local retail sales taxes measured by the retailing portions must be separately collected from dues paying members, reported, and remitted with the same excise tax return. (See WAC 458-20-183, 458-20-166, and RCW 82.04.050 for further guidance in distinguishing between retailing and service activities for excise tax purposes.)

NONPROFIT YOUTH ORGANIZATIONS.

Nonprofit youth organizations which, as such, are exempt from property tax under RCW 84.36.030 may deduct fees or dues received from members even though the members are entitled to use the organization's facilities, including camping and recreational facilities, in return for such payments. (See RCW 82.04.4271).

TUITION FEES.

The term "tuition fees" refers only to fees charged by educational institutions, and, in addition to instruction fees, includes library, laboratory, health and other special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institutions.

"Educational institutions" which may deduct "tuition fees" are those which have been created or generally accredited as such by the state and which offer to students an educational program of a general academic nature and those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry and agriculture, but not including specialty schools, business colleges, other trade schools or similar institutions. ((Educational institutions which are entitled to the deduction include the following:

a. The common schools, the state normal schools, the University of Washington, the Washington State University and such other schools which are or may be established by law and maintained at public expense as part of the "uniform school system" provided for in RCW 28.02.010;

b. Parochial schools and private schools accredited to schools of the "uniform school system" by the state board of education or the state department of education, and which are not specialty schools, business colleges, other trade schools or similar institutions;

c. Schools whose students and credentials are accepted without examination by the schools referred to in "a" and "b" above, and which are not specialty schools, business colleges, other trade schools or similar institutions:))

A business college, dancing school, music school or specialty school is not an "educational institution" within the meaning of that term as defined above. Tuition fees collected by such institutions are taxable under the service and other business activities classification of the business and occupation tax.

The right to deduct bona fide initiation fees, dues, contributions, donations, tuition fees and endowment funds does not exempt any person, association or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others. However, agencies or institutions of the state of Washington, such as the University of Washington and community colleges are exempt from payment of the business and occupation tax.

Revised ((June 1, 1970)) March 27, 1984.

WSR 84-05-068 PROPOSED RULES DEPARTMENT OF REVENUE

[Filed February 22, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning amusement and recreation activities and businesses, WAC 458-20-183;

that the agency will at 9:30 a.m., Tuesday, March 27, 1984, in the First Floor Conference Room, General Administration Building, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 1, 1984.

The authority under which these rules are proposed is RCW 82.32.300.

The specific statute these rules are intended to implement is RCW 82.04.050, 82.04.290 and 82.08.020.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 27, 1984.

Dated: February 22, 1984

By: Matthew J. Coyle

Deputy Director

STATEMENT OF PURPOSE

Title: WAC 458-20-183 Amusement and recreation activities and businesses.

Description of Purpose: To explain the distinction between the kinds of amusement and recreation activities which are taxable as sales at retail as opposed to those which are taxable under the service and other business activities classification of business and occupation tax.

Statutory Authority: RCW 82.32.300.

Specific Statute(s) Rule is Intended to Implement: RCW 82.04.050, 82.04.290 and 82.08.020.

Reasons Supporting Proposed Action: The present version of the rule does not fully and completely explain how all amusement and recreation activities and businesses are taxable. Persons affected by this rule and the statutes it implements have requested clarifications and more precise guidelines for determining their tax classifications. This amended version seeks to provide such guidance and to distinguish between sales taxable and service taxable activities in a uniform and consistent manner.

Agency Personnel Responsible for Drafting and Implementation: DeLoss H. Brown, 415 General Administration Building, Olympia, Washington 98504, Telephone: 753-5544; and Enforcement: Department of Revenue, General Administration Building, Olympia, Washington 98504, Telephone: 753-5540.

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

WAC 458-20-183 ((PLACES OF)) AMUSEMENT ((OR)) AND RECREATION ACTIVITIES AND BUSINESSES. The term "sale at retail" is defined by RCW 82.04.050 to include ((certain amusement and recreation businesses. Those activities specifically included within the definition are golf, pool, billiards, skating, bowling, and ski lifts and tows. Thus, while the legislature has not defined the term "amusement and recreation business," it has indicated the type of businesses it intended to tax under this classification, i.e., recreations in which the payment is for participation. Accordingly, the language of this classification is construed to include the following additional amusement and recreation businesses: Archery, badminton, bowling shoes rentals, croquet and handball courts, operation of charter boats for sport-fishing, golf cart rentals, dancing, golf driving ranges, miniature golf, private fishing, shuffleboard, swimming facilities, tennis facilities, trampolines)) the sale of or charge made by persons engaging in certain business activities, including "amusement and recreation businesses." The statute indicates the type of activities and business intended to be taxed under this classification; i.e., "including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows, and others." Thus, while certain activities are specifically included within the statutory definition (golf, pool, etc.) it is clear that the types of activities and businesses intended to be taxed under the retail sales tax classification are those in which payment is for participation.

The term "sale at retail" includes all activities wherein a person pays for the right to actively participate in an amusement or recreation activity. The term does not include the sale of or charge made for providing facilities where a person is merely a spectator or passive participant in the activity, such as movies, concerts, sports events, and the like. Nor does the term include activities of an instructional nature, even though the person is physically participating in the activity.

The term "sale at retail" also includes the sale of or charge made for

The term "sale at retail" also includes the sale of or charge made for providing camping and other outdoor living facilities regardless of whether or not additional recreation facilities of the type mentioned above are available for use.

BUSINESS AND OCCUPATION TAX

Gross receipts from the <u>kind of amusement and recreation activities</u> and businesses ((listed)) <u>involving active participation as described</u> above are taxable under the classification retailing.

Such persons are <u>also</u> taxable under the retailing classification upon gross receipts from sales of meals, drinks, tobacco, or other property sold by them.

Gross receipts from instruction and passive participation in amusement and recreation activities and businesses are taxable under the classification service and other activities.

RETAIL SALES TAX

The retail sales tax must be collected upon charges for admissions and the use of facilities by persons engaged in the amusement and recreation activities and businesses ((listed)) involving active participation as described above. The retail sales tax must also be collected upon sales of cigarettes and other merchandise by persons engaging in such businesses. See WAC 458-20-244 for sales of food products.

When the charge for merchandise is included within a charge for admission which is not a "sale at retail" as defined herein, the retail sales tax applies to the charge made for both merchandise and admission, unless a proper segregation of such charge is made upon the books of account of the seller.

The retail sales tax applies upon the sale or rental of all equipment and supplies to persons conducting places of amusement and recreation, except merchandise which is resold by them.

The retail sales tax does not apply to the charge made for instruction or passive participation in an amusement or recreation activity.

((Revised April 28, 1978)) Revised March 27, 1984. Effective July 1, 1978.

WSR 84-05-069 PROPOSED RULES DEPARTMENT OF LICENSING

(Optometry Board)

[Filed February 22, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Optometry Board intends to adopt, amend, or repeal rules concerning:

Amd	WAC	308-53-030	Temporary permit recommendation
			policy.
Amd	WAC	308-53-085	Grading examinations.
Amd	WAC	308-53-120	Courses presumed to qualify for credit.
Rep	WAC	308-53-190	Exemption of retired doctors of optome-
-			try from continuing education
			requirement.

A copy of the proposed amendments and repealer is shown below, however, changes may be made at the hearing;

that the agency will at 9:00 a.m., Monday, April 9, 1984, in the University Towers Hotel, 4507 Brooklyn N.E., Seattle, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.54.070(5).

The specific statute these rules are intended to implement is RCW 18.54.070(5).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 9, 1984.

Dated: February 22, 1984

By: Stanley R. Haskins

Executive Secretary

STATEMENT OF PURPOSE

Name of Agency: Washington State Optometry Board.

Purpose of Proposed Amendments and Repealer: To recommend that temporary permits to practice optometry cease to be issued, to clarify what scoring is necessary for successful completion of the examination, to add to courses presumed to qualify for continuing education credit, and to repeal the exemption from continuing education requirements for retired licensees.

Statutory Authority: RCW 18.54.070(5).

Summary of the Rules: WAC 308-53-030 Temporary permit recommendation policy; 308-53-085 Grading examinations; 308-53-120 Courses presumed to qualify for credit; and 308-53-190 Exemption of retired doctors of optometry from continuing education requirement.

Reason for Proposed Amendments and Repealer: To recommend to the director of the Department of Licensing on temporary permit issuance, to clarify examination scoring requirements, to add to continuing education courses presumed to qualify, and to delete exemptions for retired doctors of optometry from continuing education requirements.

Responsible Personnel: The Washington State Optometry Board and its executive secretary have the responsibility for drafting, implementing and enforcing these rules. The executive secretary is Stanley R. Haskins, P.O. Box 9649, Olympia, WA 98504, telephone (206) 753-0774 comm, (206) 234-0774 scan.

Proponents of the Proposed Amendments and Rules: These amendments and repealer were proposed by the Washington State Optometry Roard.

Agency Comments: These rules were proposed pursuant to RCW 18.54.070(5).

Federal Law or Federal or State Court Requirements: The proposed rules and amendment are not necessitated as the result of federal law or federal or state court action.

AMENDATORY SECTION (Amending Order PL 281, filed 1/17/78)

WAC 308-53-030 TEMPORARY PERMIT RECOMMENDATION POLICY. To protect the public, the board ((generally will)) recommends to the director ((issuance of a temporary permit pursuant to RCW 18.53.030 only when the temporary permittee will practice in conjunction with a currently licensed doctor of optometry. If an applicant for a temporary permit is particularly well qualified—for example, by a considerable length of practice in a state with optometry licensing standards equivalent to Washington's—the board may recommend that the director issue him a temporary permit without such restriction)) that temporary permits not be issued under the director's discretion pursuant to RCW 18.53.030. However, if a temporary permit is issued the board recommends that the applicant must be under the direct and immediate supervision of a currently licensed optometrist who is at all times on the same premises.

AMENDATORY SECTION (Amending Order PL 433, filed 5/3/83)

WAC 308-53-085 GRADING EXAMINATIONS. To successfully pass the examination an applicant must obtain the following:

- (1) Pass the practical examination section with at least a seventyfive perdent (75%) average score; and
- (2) Pass the practical oral interview and case history section with at least a seventy-five percent (75%) score; and
- (3) Obtain a total overall average score of at least seventy-five percent (75%).

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order PL 239, filed 3/3/76)

WAC 308-53-120 COURSES PRESUMED TO QUALIFY FOR CREDIT. Courses offered by the organizations listed in this section will be presumed to qualify as continuing education courses without specific prior approval of the boards, but the board reserves the authority to refuse to accept credits in any course if the board determines that the course did not provide information or training sufficient in amount or relevancy. Organizations for the purposes of this section shall include:

- (1) The American Optometric Association.
- (2) Any college or school of optometry whose scholastic standards are deemed sufficient by the board under RCW 18.53.060(2).
 - (3) The Washington Optometric Association.
- (4) Any state optometric association which is recognized by the licensing authority of its state as a qualified professional association or educational organization.
 - (5) The state optometry board.
 - (6) The optometry licensing authority of any other state.
 - (7) The American Academy of Optometry.
 - (8) The Optometric Extension Program.
 - (9) The College of Optometrists and Visual Development.
 - (10) The National Eye Research Foundation.

- (11) Regional congresses of any of the organizations listed in subsections (1) through (10) of this section.
- (12) The Commission on Continuing Optometric Education of the American Optometric Association, category one (1) courses.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

REPEALER

The following section of the Washington Administration Code is hereby repealed:

WAC 308-53-190 EXEMPTION OF RETIRED DOCTORS OF OPTOMETRY FROM CONTINUING EDUCATION REQUIREMENT.

WSR 84-05-070 ADOPTED RULES DEPARTMENT OF LICENSING (Dental Disciplinary Board)

[Order PL 460—Filed February 22, 1984]

Be it resolved by the Washington State Dental Disciplinary Board, acting at Seattle, Washington, that it does adopt the annexed rules relating to patient abandonment, new section WAC 308-37-150.

This action is taken pursuant to Notice No. WSR 84-02-076 filed with the code reviser on January 4, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.32.640(1) and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 10, 1984.

By Alan D. Adams, D.D.S.

Chairman

NEW SECTION

WAC 308-37-150 PATIENT ABANDONMENT. Once treatment has commenced and/or dental care has been initiated or rendered, a dentist shall not neglect, ignore, abandon, or refuse to complete current procedure for a patient or otherwise fail to appropriately monitor or attend to such patient. The dentist shall not withdraw responsibility to such patient before the completion of the current procedure without first advising the patient that termination of treatment is contemplated and that another dentist should be sought to complete the current procedure, provided, that the dentist shall first arrange or offer to arrange a transfer to another dentist.

KEY TO TABLE

Symbols:

AMD = Amendment of existing section NEW = New section not previously codified

REP = Repeal of existing section
OPT = Readontion of existing section

READOPT = Readoption of existing section REVIEW = Review of previously adopted rule

STMT = Statement regarding previously adopted rule

Suffixes:

-P = Proposed action

-C = Continuance of previous proposal

-E = Emergency action

-W = Withdrawal of proposed action

No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
1686005	AMD-P	84-04-083	16-750-010	AMD-P	84-03-020	173-19-400	AMD-P	84-03-057
16-86-006	REP-P	84-04-083	50-12-050	AMD	84-03-036	173-19-4203	AMD-P	84-04-078
16-86-007	REP-P	84-04-083	50-20-050	AMD-P	84-03-009	173-19-4501	AMD-P	84-03-057
16-86-009	REP-P	84-04-083	131-16-093	AMD-P	84-03-004	173-19-4501	AMD-W	84-04-074
16-86-011	REP-P	84-04-083	132F-120-020	AMD	84-03-028	173-19-4501	AMD-P	84-04-077
16-86-012	REP-P	84-04-083	132F-120-030	AMD	84-03-028	173-19-4704	AMD-P	84-04-079
16-86-015	AMD-P	84-04-083	132F-120-040	AMD	84-03-028	173-216-010	AMD-P	84-02-070
16-86-095	AMD-P	84-04-083	132F-120-041	NEW	84-03-028	173-216-020	AMD-P	84-02-070
16-213-200	NEW-P	84-03-045	132F-120-042	NEW	84-03-028	173-218-010	NEW-P	84-02-070
16-213-210	NEW-P	84-03-045	132F-120-043	NEW	84-03-028	173-218-020	NEW-P	84-02-070
16-213-220	NEW-P	84-03-045	132F-120-050	AMD	84-03-028	173-218-030	NEW-P	84-02-070
16-213-230	NEW-P	84-03-045	132F-120-070	AMD	84-03-028	173-218-040	NEW-P	84-02-070
16-228-010	AMD-P	84-05-014	132F-120-080	AMD	84-03-028	173-218-050	NEW-P	84-02-070
16-228-115	AMD-P	84-05-014	132F-120-090	AMD	84-03-028	173-218-060	NEW-P	84-02-070
16-228-125	AMD-P	84-05-014	132F-120-100	AMD	84-03-028	173-218-070	NEW-P	84-02-070
16-228-130	AMD-P	84-05-014	132F-120-110	AMD	84-03-028	173-218-080	NEW-P	84-02-070
16-228-155	AMD-P	84-05-014	132F-120-120	AMD	84-03-028	173-218-090	NEW-P	84-02-070
16-228-160 16-228-161	AMD-P NEW-P	84-05-014 84-05-014	132F-120-130 132F-120-150	AMD AMD	84-03-028	173-218-100	NEW-P	84-02-070
16-228-162	AMD-P	84-05-014	132F-120-150 132F-120-160	AMD	84-03-028 84-03-028	173–218–110 173–303	NEW-P	84-02-070
16-228-165	AMD-P	84-05-014	132F-120-100 132F-120-170	AMD	84-03-028	173–303	AMD-C NEW	84-04-075 84-05-012
16-228-168	AMD-P	84-05-014	132F-120-170	AMD	84-03-028	173-305-015	NEW	84-05-012
16-228-170	AMD-P	84-05-014	132F-120-190	AMD	84-03-028	173-305-015	NEW	84–05–012 84–05–012
16-228-172	AMD-P	84-05-014	132F-120-200	AMD	84-03-028	173-305-020	NEW	84-05-012
16-228-174	REP-P	84-05-014	132F-120-210	NEW	84-03-028	173-305-040	NEW	84-05-012
16-228-176	REP-P	84-05-014	132F-120-510	REP	84-03-028	173-305-050	NEW	84-05-012
16-228-178	REP-P	84-05-014	132H-116-800	REP-P	84-04-062	173-305-060	NEW	84-05-012
16-228-180	AMD-P	84-05-014	132H-200-110	NEW-P	84-04-049	173-305-070	NEW	84-05-012
16-228-185	AMD-P	84-05-014	137-12-010	REP-P	84-03-014	173-305-080	NEW	84-05-012
16-228-190	AMD-P	84-05-014	137-12-020	REP-P	84-03-014	173-305-090	NEW	84-05-012
16-228-210	AMD-P	84-05-014	137-12-030	REP-P	84-03-014	173-400-075	AMD-P	84-04-076
16-228-220	AMD-P	84-05-014	137-12-040	REP-P	84-03-014	173-422-050	AMD-P	84-03-056
16-228-225	AMD-P	84-05-014	137-12-050	REP-P	84-03-014	173–514–010	NEW	8404014
16-228-230	AMD-P	84-05-014	137-12-060	REP-P	84-03-014	173-514-020	NEW	84-04-014
16-228-340	NEW-E	84-05-009	137-12-070	REP-P	84-03-014	173-514-030	NEW	84-04-014
16-230-001	REP-P	84-05-066	137-12-080	REP-P	84-03-014	173-514-040	NEW	84-04-014
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16-230-060	REP-P	84-05-066	137-12A-060	NEW-P	84-03-014	180-27-070	AMD-P	84-04-084
16-230-075	AMD-P	84-05-066	137-12A-070	NEW-P	84-03-014	182-08-140	REP-E	84-04-063
16-230-076	NEW-P	84-05-066	137-12A-080	NEW-P	84-03-014	182-08-140	REP-P	84-05-029
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16-565-040	AMD-P AMD-P	84-05-055	173-19-390	AMD AMD	84-02-074 84-02-075	196-12-010 196-12-020	AMD AMD	84-04-027 84-04-027
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196-12-060	AMD	84-04-027	197-10-510 197-10-520	REP REP	84-05-021 84-05-021	197-11-610 197-11-620	NEW NEW	84-05-020 84-05-020
196-12-085 196-16-007	AMD AMD	84-04-027 84-04-027	197-10-520	REP	84-05-021	197-11-625	NEW	84-05-020
196-16-010	AMD	84-04-027	197–10–535	REP	84-05-021	197-11-630	NEW	84-05-020
196–16–020	AMD	84-04-027	197-10-540	REP	84-05-021	197-11-635	NEW	84-05-020
196-16-031	AMD	84-04-027	197-10-545	REP	84-05-021	197-11-640	NEW	84-05-020
196-20-010	AMD	84-04-027 84-04-027	197-10-550 197-10-570	REP REP	84-05-021 84-05-021	197-11-650 197-11-655	NEW NEW	84-05-020 84-05-020
196-20-030 196-24-030	AMD AMD	84-04-027	197-10-570	REP	84-05-021	197-11-660	NEW	84-05-020
196-24-040	AMD	84-04-027	197-10-600	REP	84-05-021	197-11-680	NEW	84-05-020
196-24-050	AMD	84-04-027	197-10-650	REP	84-05-021	197-11-700	NEW	84-05-020
196-24-080	AMD	84-04-027	197-10-652	REP REP	84-05-021 84-05-021	197-11-702 197-11-704	NEW NEW	8405020 8405020
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197-10-150 197-10-160	REP	84-05-021 84-05-021	197-10-840	REP	84-05-021	197-11-728	NEW	84-05-020
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197-10-177	REP	84-05-021	197-11-010	NEW	84-05-020 84-05-020	197-11-734	NEW NEW	84-05-020 84-05-020
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197-10-210 197-10-215	REP REP	84-05-021 84-05-021	197-11-060 197-11-070	NEW NEW	84-05-020 84-05-020	197-11-746 197-11-748	NEW	84-05-020 84-05-020
197-10-213	REP	84-05-021	197-11-080	NEW	84-05-020	197-11-750	NEW	84-05-020
197-10-225	REP	84-05-021	197-11-090	NEW	84-05-020	197-11-752	NEW	84-05-020
197-10-230	REP	84-05-021	197-11-100	NEW	84-05-020	197-11-754	NEW NEW	84-05-020 84-05-020
197-10-235 197-10-240	REP REP	84-05-021 84-05-021	197-11-300 197-11-305	NEW NEW	84-05-020 84-05-020	197-11-756 197-11-758	NEW	84-05-020 84-05-020
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197-10-270	REP	84-05-021	197-11-330	NEW	84-05-020	197-11-764	NEW NEW	84-05-020 84-05-020
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197-10-310	REP	84-05-021	197-11-350	NEW	84-05-020	197-11-770	NEW	84-05-020
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197-10-330	REP	84-05-021	197-11-390	NEW	84-05-020 84-05-020	197-11-774 197-11-776	NEW NEW	84-05-020 84-05-020
197-10-340 197-10-345	REP REP	84-05-021 84-05-021	197-11-400 197-11-402	NEW NEW	84-05-020 84-05-020	197-11-778	NEW	84-05-020
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197-10-355	REP	8405021	197-11-406	NEW	84-05-020	197-11-782	NEW	84-05-020
197-10-360	REP	84-05-021	197-11-408	NEW	84-05-020 84-05-020	197-11-784 197-11-786	NEW NEW	84-05-020 84-05-020
197-10-365 197-10-370	REP REP	84-05-021 84-05-021	197-11-410 197-11-420	NEW NEW	84-05-020 84-05-020	197-11-788	NEW	84-05-020 84-05-020
197-10-375	REP	84-05-021	197-11-425	NEW	84-05-020	197-11-790	NEW	84-05-020
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197–10–390	REP	84-05-021	197-11-435	NEW	84-05-020	197-11-793	NEW NEW	84-05-020
197-10-400 197-10-405	REP REP	84-05-021 84-05-021	197-11-440 197-11-442	NEW NEW	84-05-020 84-05-020	197-11-794 197-11-796	NEW	84-05-020 84-05-020
197-10-403	REP	84-05-021	197-11-443	NEW	84-05-020	197-11-797	NEW	84-05-020
197-10-420	REP	84-05-021	197–11 –44 4	NEW	84-05-020	197-11-799	NEW	84-05-020
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197-10-440 197-10-442	REP REP	84-05-021 84-05-021	197-11-450 197-11-455	NEW NEW	84-05-020 84-05-020	197-11-810 197-11-820	NEW NEW	84-05-020 84-05-020
197-10-442 197-10-444	REP	84-05-021	197-11-450	NEW	84-05-020	197-11-825	NEW	84-05-020
197–10–446	REP	84-05-021	197-11-500	NEW	84-05-020	197-11-830	NEW	84-05-020
197-10-450	REP	84-05-021	197-11-502	NEW	84-05-020	197-11-835	NEW	84-05-020
197-10-455	REP REP	84-05-021 84-05-021	197-11-504 197-11-508	NEW NEW	84-05-020 84-05-020	197-11-840 197-11-845	NEW NEW	84-05-020 84-05-020
197-10-460 197-10-465	REP	84-05-021	197-11-508	NEW	84-05-020 84-05-020	197-11-843	NEW	84-05-020
197-10-470	REP	84-05-021	197-11-535	NEW	84-05-020	197-11-855	NEW	8405020
197-10-480	REP	84-05-021	197-11-545	NEW	84-05-020	197-11-860	NEW	84-05-020
197-10-485 197-10-490	REP REP	84-05-021 84-05-021	197-11-550 197-11-560	NEW NEW	84-05-020 84-05-020	197-11-865 197-11-870	NEW NEW	84-05-020 84-05-020
177-10-470	KLI	07-03-021	177-11-300		07 03 020	1 0,0		J. 30 020

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197–11–875	NEW	84-05-020	220-52-001	NEW-P	84-04-091	220-57A-185	AMD-P	84-03-060
197-11-880	NEW	84-05-020	220-52-010	AMD-P	84-04-091	220-57A-190	AMD-P	84-03-060
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197-11-902	NEW	84-05-020	220-52-019	AMD-P	84-04-091	220-69-247	NEW-P	84-03-060
197-11-904	NEW	84-05-020	220-52-01901	AMD-P	84-04-091	220-69-250	AMD-P	84-04-091
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197-11-908	NEW	84-05-020	220–52–030 220–52–040	AMD-P	84-04-091	220-74-022	AMD	84-05-046
197-11-910 197-11-912	NEW NEW	84-05-020 84-05-020	220-52-040	AMD–P AMD–P	84-04-091 84-04-091	220-76-010 220-76-010	AMD–P AMD	84-03-059 84-05-046
197-11-914	NEW	84-05-020	220-52-046	AMD-P	84-04-091	220-85-015	AMD-P	84-03-059
197-11-916	NEW	84-05-020	220-52-050	AMD-P	84-04-091	220-85-015	AMD	84-05-046
197-11-917	NEW	84-05-020	220-52-053	AMD-P	84-04-091	220-85-050	AMD-P	84-03-059
197-11-918 197-11-920	NEW NEW	84-05-020 84-05-020	220–52–063 220–52–066	AMD–P AMD–P	84-04-091 84-04-091	220-85-050 220-85-070	AMD AMD–P	84-05-046 84-03-059
197-11-920	NEW	84-05-020	220–52–06600D	NEW-E	84-04-044	220-85-070	AMD-P AMD	84-05-046
197-11-924	NEW	84-05-020	220-52-069	AMD-P	84-04-091	220-85110	AMD-P	84-03-059
197-11-926	NEW	84-05-020	220-52-075	AMD-P	84-04-091	220-85-110	AMD	84-05-046
197-11-928	NEW	84-05-020	220-52-07500H	NEW-E	84-04-044	220-95-021	AMD-P	84-03-059
197-11-930 197-11-932	NEW NEW	84-05-020 84-05-020	220–55–120 220–55–120	AMD–P AMD	84-03-059 84-05-046	220–95–021 220–95–026	AMD AMD–P	84-05-046 84-03-059
197-11-934	NEW	84-05-020	220-55-130	AMD-P	84-03-059	220–95–026	AMD-F	84-05-046
197-11-936	NEW	84-05-020	220-55-130	AMD	84-05-046	220-110-010	AMD	84-04-047
197-11-938	NEW	84-05-020	220-56-105	AMD-P	84-03-060	220-110-020	AMD	84-04-047
197-11-940	NEW NEW	8405020 8405020	220–56–115 220–56–125	AMD–P AMD–P	84-03-060 84-03-060	220-110-030	AMD	84-04-047
197-11-942 197-11-944	NEW	84-05-020	220-56-132	NEW-P	84-03-060	220-110-110 220-110-190	AMD AMD	84-04-047 84-04-047
197-11-946	NEW	84-05-020	220-56-180	AMD-P	84-03-060	220-110-250	AMD	84-04-047
197-11-948	NEW	84-05-020	220-56-190	AMD-P	84-03-060	220-110-260	AMD	84-04-047
197-11-950	NEW	84-05-020	220-56-196	AMD-P	84-03-060	220-110-300	AMD	84-04-047
197-11-955 197-11-960	NEW NEW	84-05-020 84-05-020	220–56–198 220–56–201	AMD-P NEW-P	84-03-060 84-03-060	220-110-340 220-110-350	AMD AMD	84-04-047 84-04-047
197-11-965	NEW	84-05-020	220-56-235	AMD-P	84-03-060	232-12-025	NEW	84-04-015
197-11-970	NEW	84-05-020	220-56-240	AMD-P	84-03-060	232-12-04502	NEW-E	84-02-064
197-11-980	NEW	84-05-020	220-56-250	AMD-P	84-03-060	232-12-064	AMD-P	84-05-057
197-11-985 197-11-990	NEW NEW	8405020 8405020	220–56–295 220–56–310	AMD–P AMD–P	84-03-060 84-03-060	232–12–066 232–12–157	NEW-P AMD	84-05-058 84-03-021
212-75-001	NEW-P	84-05-013	220-56-320	AMD-P	84-03-060	232-12-137	AMD	84-05-003
212-75-005	NEW-P	84-05-013	220-56-325	AMD-P	84-03-060	232-28-50601	NEW-E	84-05-061
220-16-085	AMD-P	84-04-091	220-56-330	AMD-P	84-03-060	232-28-60601	NEW-E	84-02-062
220-16-100	AMD–P NEW–P	84-04-091 84-03-060	220–56–380 220–57–120	AMD–P AMD–P	84-03-060 84-03-060	232-28-60602	NEW-E	84-04-001 84-04-002
220-16-375 220-16-380	NEW-P	84-03-060 84-03-060	220-57-120	AMD-P	84-03-060	232–28–60603 232–28–60604	NEW-E NEW-E	84-05-002 84-05-002
220-20-010	AMD-P	84-04-091	220-57-135	AMD-P	84-03-060	232-28-705	REP	84-05060
220-22-410	AMD-P	84-04-091	220-57-140	AMD-P	84-05-042	232-28-706	NEW	8405060
220-32-02000L	NEW-E NEW-E	84-05-006	220-57-150	AMD-P	84-03-060 84-03-060	232-28-805	REP-P	84-05-059
220-32-02200K 220-32-02200K	REP-E	84-04-043 84-05-006	220–57–155 220–57–160	AMD–P AMD–P	84-03-060 84-03-060	232–28–806 232–32–155	NEW-P NEW-E	84-05-059 84-02-063
220-32-03000H	NEW-E	84-05-037	220-57-175	AMD-P	84-03-060	232–32–157	NEW-E	84-02-065
220-32-04000T	NEW-E	84-02-049	220-57-200	AMD-P	84-03-060	232-32-158	NEW-E	84-03-023
220-32-04000T	REP-E	84-04-060	220-57-230	AMD-P	84-03-060	232–32–159	NEW-E	84-03-029
220-32-04000U 220-32-04000U	NEW-E REP-E	84-04-060 84-05-035	220–57–270 220–57–280	AMD–P AMD–P	84-03-060 84-03-060	232–32–160 232–32–161	NEW-E NEW-E	84-03-022 84-03-030
220-32-04000V	NEW-E	84-05-035	220-57-285	AMD-P	84-03-060	232-32-162	NEW-E	84-03-031
220-32-044	AMD-P	84-04-091	220-57-295	AMD-P	84-03-060	232-32-163	NEW-E	84-05-001
220-32-05100B	NEW-E	84-05-036	220-57-300	AMD-P	84-03-060	248-19-220	AMD-P	84-04-026
220-32-055 220-32-055	AMD–P AMD	84-03-059 84-05-046	220–57–319 220–57–335	AMD–P AMD–P	84-03-060 84-03-060	248–19–220 248–19–230	AMD–E AMD–P	84-04-057 84-04-026
220-32-05700T	NEW-E	84-02-049	220-57-340	AMD-P	84-03-060	248-19-230	AMD-F AMD-E	84-04-057
220-36-03001	AMD-P	84-04-091	220-57-365	AMD-P	84-03-060	251-04-020	AMD-P	84-02-067
220-40-030	AMD-P	84-04-091	220-57-385	AMD-P	84-03-060	251-04-020	AMD-P	84-04-070
220-44	AMD-P	84-04-091	220-57-430	AMD-P	84-03-060	251-04-020	AMD-E	84-04-071
220 -44- 020 220 -44- 030	AMD–P AMD–P	84-04-091 84-04-091	220–57–440 220–57–460	AMD–P AMD–P	84-03-060 84-03-060	251-04-040 251-10-045	AMD–P AMD–P	84-02-067 84-04-070
220-44-040	AMD-P	84-04-091	220-57-473	AMD-P	84-03-060	251-10-045	AMD-E	8404071
220-44-050	AMD-P	84-04-091	220-57-510	AMD-P	84-03-060	251-10-055	AMD-P	84-04-070
220-44-060	NEW-P	84-04-091	220-57-520	AMD-P	84-03-060	251-10-055	AMD-E	84-04-071
220 -44- 070 220-48-011	NEW-P AMD-P	84-04-091 84-04-091	220-57-525 220-57A-010	AMD–P AMD–P	84-03-060 84-03-060	251-18-180 251-18-180	AMD–P AMD–E	84-04-070 84-04-071
220 -4 8-011 220-48-015	AMD-P	84-04-091 84-04-091	220-57A-010 220-57A-037	NEW-P	84-03-060 84-03-060	251-18-180	NEW-P	84-02-067
220-48-01500G	REP-E	84-05-025	220-57A-040	AMD-P	84-03-060	251-18-320	AMD-P	84-04-070
220-48-01500H	NEW-E	84-05-025	220-57A-065	AMD-P	84-03-060	25118320	AMD-E	84-04-071
220-48-017	AMD-P	84 04 091	220-57A-080	AMD–P AMD–P	84-03-060	251-18-330	AMD-P	84-02-067 84-04-070
220-48-029 220-48-031	AMD–P AMD–P	84-04-091 84-04-091	220-57A-082 220-57A-112	AMD-P AMD-P	84-03-060 84-03-060	251-18-330 251-18-330	AMD–P AMD–E	84-04-070 84-04-071
220-48-071	AMD-P	84-04-091	220-57A-112 220-57A-120	AMD-P	84-03-060	251-18-340	AMD-P	84-04-070
220-49-020	AMD-P	84-04-091	220-57A-152	AMD-P	84-03-060	251-18-340	AMD-E	84-04-071

	WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
	251-18-350	AMD-P	84-02-067	296–17–91901	AMD-P	84-02-060	308-31-530	NEW	84-02-077
	251-18-355	NEW-P	84-02-067	296-17-91902	AMD-P	84-02-060	308-31-540	NEW	84-02-077
	251-18-361	NEW-P	84-02-067	296-19-010	REP-P	84-02-059	308-31-550	NEW	84-02-077
	251-22-070 251-22-070	AMD–P AMD–E	84-04-070 84-04-071	296-81-007 296-81-007	AMD-C AMD	84-03-008 84-05-005	308-31-560	NEW NEW	84-02-077 84-02-077
	251-22-070 260-70-010	AMD-E AMD-P	84-04-061	296-81-340	AMD-C	84-03-003 84-03-008	308-31-570 308-37-150	NEW-P	84-02-077 84-02-076
	260-70-021	AMD-P	84-04-061	296-81-340	AMD	84-05-005	308-37-150	NEW	84-05-070
	260-70-025	NEW-P	84-04-061	296-81-360	AMD-C	84-03-008	308-40-102	AMD-P	84-04-087
	260-70-026	NEW-P	84-04-061	296-81-360	AMD	84-05-005	308-42-020	REP	84-03-055
	260-70-027	NEW-P	84-04-061	296-81-991	NEW-C	84-03-008	308-42-030	REP	84-03-055
•	260-70-028	NEW-P	84-04-061	296-81-991	NEW	84-05-005	308-42-035	REP	84-03-055
	260-70-029	NEW-P	84-04-061	296–93–010	NEW-P	84-05-032	308-42-040	AMD	84-03-055
	260-70-031	NEW-P NEW-P	84-04-061 84-04-061	296–93–020 296–93–030	NEW-P NEW-P	84-05-032 84-05-032	308-42-050	REP	84-03-055 84-03-055
	260-70-032 260-70-090	AMD-P	84-04-061	296-93-040	NEW-P	84-05-032	308-42-055 308-42-070	REP AMD	84-03-055
	260-70-100	AMD-P	84-04-061	296–93–050	NEW-P	84-05-032	308-42-120	AMD	84-03-055
	262-01-010	NEW	84-04-042	296-93-060	NEW-P	84-05-032	308-50-010	AMD-E	84-03-018
	262-01-020	NEW	84-04-042	296–93–070	NEW-P	84-05-032	308-50-010	AMD-P	84-04-048
	262-01-030	NEW	84-04-042	296-93-080	NEW-P	84-05-032	308-50-020	AMD-E	84-03-018
	262-01-040	NEW	84-04-042	296–93–090	NEW-P	84-05-032	308-50-020	AMD-P	84-04-048
	262-01-050 263-12-115	NEW AMD-C	84-04-042 84-04-025	296–93–100 296–93–110	NEW-P NEW-P	84-05-032 84-05-032	308-50-050 308-50-090	REP-P AMD-E	84-04-048 84-03-018
	263-12-115	AMD-C	84-04-058	296-93-110	NEW-P	84-05-032	308-50-090	AMD-E AMD-P	84-04-048
	263-12-115	AMD-E	84-04-059	296-93-130	NEW-P	84-05-032	308-50-100	AMD-P	84-04-048
	275-27-800	NEW-P	84-04-009	296-93-140	NEW-P	84-05-032	308-50-110	AMD-P	84-04-048
	275-27-800	NEW-E	84-04-010	296–93–150	NEW-P	84-05-032	308-50-120	AMD-P	8404048
	275-27-810	NEW-P	84-04-009	296–93–160	NEW-P	84-05-032	308-53-030	AMD-P	84-05-069
	275-27-810	NEW-E	84-04-010	296–93–170	NEW-P	84-05-032	308-53-085	AMD-P	84-05-069
	275–27–820 275–27–820	NEW-P NEW-E	84-04-009 84-04-010	296–93–180 296–93–190	NEW-P NEW-P	84-05-032 84-05-032	308-53-120 308-53-190	AMD–P REP–P	84-05-069 84-05-069
	275-31-005	NEW-E	84-03-054	296-93-200	NEW-P	84-05-032 84-05-032	308-54-140	AMD-P	84-04-086
	275-31-010	NEW	84-03-054	296-93-210	NEW-P	84-05-032	308-54-150	AMD-P	84-04-086
	275-31-020	NEW	84-03-054	296-93-220	NEW-P	84-05-032	308-138-200	AMD	84-05-011
	275-31-030	NEW	84-03-054	296-93-230	NEW-P	84-05-032	308-138A-025	AMD	84-05-011
	275-31-040	NEW	84-03-054	296-93-240	NEW-P	84-05-032	308-138B-120	REP	84-05-011
	275-31-050	NEW	84-03-054	296–93–250	NEW-P	84-05-032	308-138B-165	NEW	84-05-011
	275–31–070 275–31–080	NEW NEW	84-03-054 84-03-054	296–93–260 296–93–270	NEW-P NEW-P	84-05-032 84-05-032	308-138B-170 314-16-110	AMD AMD	84-05-011 84-02-066
	275-31-090	NEW	84-03-054	296-93-280	NEW-P	84-05-032	314–16–200	AMD-W	84-03-019
	275-38-600	AMD-P	84-05-056	296-93-290	NEW-P	84-05-032	315-04-120	AMD-N	84-05-050
	275-38-730	AMD-P	84-04-056	296-93-300	NEW-P	84-05-032	315-04-180	AMD	84-05-008
	275-55-020	AMD	84-03-035	296-93-320	NEW-P	84-05-032	315–06–120	AMD-P	84-05-050
	275–55–161	AMD	84-03-035	296-93-330	NEW-P	84-05-032	315-06-130	AMD	84-05-008
	275-55-263 275-55-271	AMD AMD	84-03-035 84-03-035	296-116-300	AMD E	84-04-006	315-10-020	AMD	84-05-008
	275–55–271 275–55–281	AMD	84-03-035 84-03-035	296–116–300 296–200–300	AMD-E NEW-E	84-04-007 84-03-003	315–10–030 315–10–060	AMD AMD	84-05-008 84-05-008
	275-55-291	AMD	84-03-035	296-200-300	NEW-P	84-04-072	315-11-071	AMD	84-05-008
	275-55-293	AMD	84-03-035	296-200-310	NEW-E	84-03-003	315-11-081	AMD	84-05-008
	275-55-297	AMD	84-03-035	296-200-310	NEW-P	84-04-072	315–11–101	AMD-E	84-03-026
	275-55-301	AMD	84-03-035	296-200-320	NEW-E	84-03-003	315-11-101	AMD-P	84-05-051
	275–55–331 275–55–371	AMD	84-03-035	296–200–320	NEW-P	84-04-072	315-11-110	NEW-P	84-05-052
	275-55-371 284-44-020	AMD REP–P	84-03-035 84-04-032	296–400–300 304–12–015	NEW-P REP-P	84-04-072 84-04-089	315-11-110 315-11-111	NEW-E NEW-P	84-05-053 84-05-052
	284 44 400	NEW-P	84-04-032	304-12-020	NEW-P	84-04-089	315-11-111	NEW-E	84-05-053
	284-44-410	NEW-P	84-04-032	304-12-025	NEW-P	84-04-089	315-11-112	NEW-P	84-05-052
	284 -4 6-010	NEW-P	84-04-033	304-12-125	AMD-P	84-04-089	315-11-112	NEW-E	84-05-053
	284-46-020	NEW-P	84-04-033	304-25-040	AMD-P	84-04-089	315–12–030	AMD	84-05-008
	296-04-500	REP	84-04-024	304-25-090	REP-P	84-04-089	315–30–080	NEW	84-05-008
	296-04-501 296-04-502	REP REP	84-04-024 84-04-024	304-25-100	REP-P	84-04-089	315-30-090	NEW	84-05-008
	296-04-503	REP	84-04-024	308-12-031 308-12-050	AMD AMD	84-04-028 84-04-028	316-02-001 316-02-003	NEW-P NEW-P	84-04-081 84-04-081
	296-04-504	REP	84-04-024	308-12-110	AMD	84-04-028	316-02-007	NEW-P	84-04-081
	296-04-505	REP	84-04-024	308-25-020	REP	84-04-088	316-02-010	NEW-P	84-04-081
	296-04-506	REP	84-04-024	308-25-025	NEW	84-04-088	316-02-020	NEW-P	84-04-081
	296-14-010	AMD-P	84-02-059	308-25-030	AMD	84-04-088	316-02-030	NEW-P	84-04-081
	296–15–02601	AMD-P	84-02-078	308-25-040	REP	84-04-088	316-02-040	NEW-P	84-04-081
	296-15-21001 296-17-35101	REP–P NEW–P	84-02-078 84-02-059	308-25-070 308-26-015	AMD B	84-04-088	316-02-100	NEW-P	84-04-081
	296–17–33101 296–17–905	AMD-P	84-02-059 84-02-060	308-26-017	AMD–P AMD–P	84-04-085 84-04-085	316-02-103 316-02-105	NEW-P NEW-P	84-04-081 84-04-081
	296-17-910	AMD-P	84-02-060	308-31-015	NEW	84-02-077	316-02-103	NEW-P	84-04-081
	296-17-911	AMD-P	84-02-060	308-31-020	AMD	84-02-077	316-02-120	NEW-P	84 04 081
	296-17-913	AMD-P	84-02-060	30831100	NEW	84-02-077	316-02-130	NEW-P	84-04-081
	296-17-914	AMD-P	84-02-060	308-31-110	NEW	84-02-077	316-02-140	NEW-P	84-04-081
	296-17-916	AMD-P	84-02-060	308-31-120	NEW	84-02-077	316-02-150	NEW-P	84-04-081
	296-17-917 296-17-918	AMD–P NEW–P	84-02-060 84-02-060	308-31-500 308-31-510	NEW NEW	84-02-077 84-02-077	316-02-160 316-02-170	NEW-P NEW-P	84-04-081 84-04-081
	296-17-919	AMD-P	84-02-060	308-31-520	NEW	84-02-077	316-02-170	NEW-P	84-04-081
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WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
316-02-200	NEW-P	84-04-081	316-25-330	NEW-P	84-04-081	316-65-030	NEW-P	84-04-081
316-02-210	NEW-P	84-04-081	316-25-350	NEW-P	84-04-081	316-65-050	NEW-P	84-04-081
316-02-220 316-02-230	NEW-P NEW-P	84-04-081 84-04-081	316-25-370 316-25-390	NEW-P NEW-P	84-04-081 84-04-081	316-65-090 316-65-110	NEW-P NEW-P	84-04-081 84-04-081
316-02-300	NEW-P	84-04-081	316-25-410	NEW-P	84-04-081	316-65-130	NEW-P	84-04-081
316-02-310	NEW-P	84-04-081	316-25-430	NEW-P	84-04-081	316-65-150	NEW-P	84-04-081
316-02-320	NEW-P	84-04-081	316-25-450	NEW-P	84-04-081	316-65-500	NEW-P	8 4 04 0 81
316-02-330 316-02-340	NEW-P NEW-P	84-04-081 84-04-081	316-25-470 316-25-490	NEW-P NEW-P	84-04-081 84-04-081	316-65-510 316-65-515	NEW-P NEW-P	84-04-081 84-04-081
316-02-350	NEW-P	84-04-081	316-25-510	NEW-P	84-04-081	316-65-525	NEW-P	84-04-081
316-02-360	NEW-P	84-04-081	316-25-530	NEW-P	84-04-081	316-65-530	NEW-P	84-04-081
316-02-370	NEW-P	84-04-081	316-25-550	NEW-P	84-04-081	316-65-535	NEW-P	84-04-081
316-02-400	NEW-P NEW-P	84-04-081 84-04-081	316-25-570 316-25-590	NEW-P NEW-P	84-04-081 84-04-081	316-65-540 316-65-545	NEW-P	84-04-081 84-04-081
316-02-410 316-02-420	NEW-P	84-04-081	316-25-610	NEW-P	84-04-081	316-65-550	NEW-P NEW-P	84-04-081
316-02-450	NEW-P	84-04-081	316-25-630	NEW-P	84-04-081	316-65-555	NEW-P	84-04-081
316-02-460	NEW-P	84-04-081	316-25-650	NEW-P	84-04-081	316-65-560	NEW-P	84-04-081
316-02-470	NEW-P	84-04-081 84-04-081	316-25-670	NEW-P	84-04-081	316-75-001	NEW-P	84-04-081
316-02-490 316-02-500	NEW-P NEW-P	84-04-081 84-04-081	316-35-001 316-35-010	NEW-P NEW-P	84-04-081 84-04-081	316-75-010 316-75-030	NEW-P NEW-P	84-04-081 84-04-081
316-02-510	NEW-P	84-04-081	316-35-030	NEW-P	84-04-081	316-75-050	NEW-P	84-04-081
316-02-600	NEW-P	84-04-081	316-35-050	NEW-P	84-04-081	316-75-070	NEW-P	84-04-081
316-02-610	NEW-P	84-04-081	316-35-070	NEW-P	84-04-081	316-75-090	NEW-P	84-04-081
316-02-800 316-02-810	NEW-P NEW-P	84-04-081 84-04-081	316-35-090 316-35-110	NEW-P NEW-P	84-04-081 84-04-081	316-75-110 316-75-130	NEW-P NEW-P	84-04-081 84-04-081
316-02-820	NEW-P	84-04-081	316-35-130	NEW-P	84-04-081	316-75-150	NEW-P	84-04-081
316-02-900	NEW-P	84-04-081	316-35-150	NEW-P	84-04-081	316-75-170	NEW-P	84-04-081
316-02-910	NEW-P	84-04-081	316-35-170	NEW-P	84-04-081	316-75-190	NEW-P	84-04-081
316-02-920 316-02-930	NEW-P NEW-P	84-04-081 84-04-081	316-35-190 316-35-210	NEW-P NEW-P	84-04-081 84-04-081	316-75-210 316-75-230	NEW-P NEW-P	84-04-081 84-04-081
316-02-930 316-07-010	REP-P	84-04-081	316-35-230	NEW-P	84-04-081	316-75-250	NEW-P	84-04-081
316-07-020	REP-P	84-04-081	316-35-250	NEW-P	84-04-081	316-75-270	NEW-P	84-04-081
316-07-030	REP-P	84-04-081	31645001	NEW-P	84-04-081	316-75-290	NEW-P	84-04-081
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316-07-130	REP-P	84-04-081	316-45-190	NEW-P	84-04-081	326-06-040	NEW-P	84-05-033
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316-07-220	REP-P	84-04-081	316-45-370	NEW-P	84-04-081	326-06-080	NEW-E	84-05-034
316-07-230	REP-P	84-04-081	316-45-390	NEW-P	84-04-081	326-06-090	NEW-P	84-05-033
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